Supreme Court, U.S.
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971948 MAR 5 - 1998

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No. _____

In The

Supreme Court of the United States

October Term, 1997

GLINDA HOSKINS,

Petitioner,

vs.

WASHINGTON COUNTY, TEXAS,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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121 pp

QUESTIONS PRESENTED FOR REVIEW

1. What amount and character of evidence does it take for an issue of racial discrimination under Title VII to survive Summary Judgment and be tried to a jury?

2. Should the inadvertent failure of Petitioner, acting without legal advice of any kind, to check a box marked "sex discrimination" on an EEOC form, deprive Petitioner of her critical substantive rights under Title VII under the doctrine of "exhaustion of administrative remedies" after Petitioner had diligently pursued her administrative remedies with Defendant after her termination pursuant to the 4-step grievance process set out in the "Washington County Personnel Policy Manual", and if so, in what circumstances? Did the granting of Summary Judgment by the Trial Court for this reason deprive the Petitioner of her due process rights under the 5th Amendment to the United States Constitution?

3. Are all inferences of Summary Judgment Facts to be drawn in favor of the party opposing Summary Judgment?

LIST OF ALL PARTIES

The parties to the proceedings in the Court whose judgment is sought to be reviewed here are those who appear in the caption of the Case. There is no parent or subsidiary of any party listed.

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None.

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Glinda Hoskins, respectfully petitions for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals was not reported and is attached hereto in Appendix A. The opinion of the District Court was not reported and is attached hereto in Appendix B.

STATEMENT OF JURISDICTION

The decision of the United States Court of Appeals for the Fifth Circuit was rendered on 12/5/97. The jurisdiction of the Court is invoked under 28 USC 1254(1)

STATUTES INVOLVED IN THIS CASE

1. 42 USC 2000e-2(a) (Title VII)

"It shall be an unlawful employment practice for an employer –

"to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's **race**, color, religion, **sex**, or national origin;"

2. FRCP 56(c)

"The judgment sought shall be rendered forthwith, if the pleadings . . . show that there is **no genuine issue as to any material fact** *and* **that the moving party is entitled to a judgment as a matter of law.**"

3. 42 USC 2000e-5(b) (Title VII)

"Charges shall be in writing . . . and shall contain such information and be in such form as the Commission requires."

4. Fifth Amendment to the Constitution of the United States

"No person shall be . . . deprived of life, liberty, or property, **without due process of law. . . .** "

STATEMENT OF THE CASE

Glinda Hoskins, is a black female and a single mother with three children, Gabriel, Steven, and Cherie, who she works hard to support. Her only income other than what she makes at the State School in Brenham at a salary of $1,261 per month and working part-time at Wal-Mart at $6.31 per hour is the child support she receives in the amount of $200 per month.[1]

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[1] Appendix "C", Affidavit of Glinda Hoskins dated 5/3/97, page 1.

She started to work for Washington County, Texas in March, 1990 as a jailer, an entry-level position. Due to her diligence, hard work, and administrative expertise, she received promotions and pay raises and in February, 1994 she was promoted to Assistant Jail Administrator, and at that time was second in command of the jail.[2]

This all abruptly and suddenly changed when a new jail administrator, Arturo Molina, a Hispanic male, was appointed by Washington County on 8/22/94. Initially, Mr. Molina made covert sexual approaches to Glinda.[3] When Glinda rebuffed him, Mr. Molina instituted a hostile work environment against Glinda, which was very emotionally disturbing to her as follows:

1. Molina made Glinda start punching a time clock, when she was an exempt salaries employee at the time.[4]

2. Molina told Glinda that he wanted her to become his Secretary (a demotion from Assistant Jail Administrator).[5]

3. Molina put Glinda on a 6 month probationary period without cause to do so.[6]

4. Molina excluded Glinda from meetings in his office at which Eddie Eppler and Diane Feuhs, the other co-conspirators, were present.[7]

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[2] Appendix "C", page 2.

[3] Appendix "C", page 11.

[4] Appendix "C", pages 4 and 5.

[5] Appendix "C", page 5.

[6] Appendix "C", page 5.

[7] Appendix "C", page 5.

Molina then placed her on two week suspension without pay on 10/19/94[8] and had Diane Feuhs assume most of her duties. Ms. Feuhs is a white female, who, on information and belief, was having a sexual relationship with Mr. Molina at the time.[9] In the depositions of both Molina and Feuhs, they admitted to visiting each others homes many times and going out together.[10] Petitioner caught Ms. Feuhs over at Molina's house 2 times on a holiday weekend.[11] Shortly thereafter on 11/14/94, Mr. Molina fired Petitioner.[12] This was devastating to Glinda and eliminated the primary source of income for her and her family.[13] Again, Ms. Feuhs took over most of the duties of the Petitioner, and received a 22.8% salary increase on 1/16/95 after Glinda was terminated in November, 1994.[14] **Immediately prior** to Glinda's suspension, ***by a very rare fluke,*** one of the jailers, Richard Johnson, overheard Mr. Molina, Ms. Feuhs, and Eddie Eppler, a white male and another assistant jail administrator, **conspiring to terminate Petitioner so that Diane Feuhs could get Petitioner's job.**[15]

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[8] Appendix "C", pages 6 and 10; Appendix C1.

[9] Appendix "C", pages 10 to 12.

[10] Appendix "D", deposition of Arturo Molina, pages 44 to 48 and Appendix "E", deposition of Diane Feuhs, record pages 31 to 35.

[11] Appendix "C", pages 11 and 12.

[12] Appendix "C", page 12; Appendix C2.

[13] Appendix "C", page 13.

[14] Appendix "E", page 57; Appendix "F", Pay records of Diane Feuhs.

[15] Appendix "C", page 6 and Appendix "G", Deposition of Richard Johnson, pages 7 to 11 and 15 to 17.

Petitioner, while she was not represented by an attorney, filed her complaint with the EEOC on 11/18/94 (**only 4 days after she was terminated**) alleging racial discrimination while she was still emotionally distraught from being fired. Petitioner did not check the box alleging sexual discrimination on the EEOC form.[16] Petitioner diligently pursued her administrative remedies with Defendant after her termination pursuant to the 4-step grievance process set out in Defendant's "Washington County Personnel Policy Manual"[17] by sending a letter to Lt. Eddie Eppler[18] (the first step); sending a letter to Arturo Molina[19] (the second step); sending a letter to Sheriff Jankowski[20] (the third step) and sending a letter to County Judge Dorothy Morgan[21] (the fourth step), all in a timely manner.

Petitioner hired this attorney on 12/13/94; suit was filed in the United States District court for the Southern District of Texas, Houston Division alleging both racial and sexual discrimination; and subsequently removed on a venue issue to the United States District Court for the Western District of Texas, Austin Division.

Defendant filed a Motion For Summary Judgment to which Petitioner timely responded. The District Court,

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[16] Appendix "H", Claim of Discrimination filed by Glinda Hoskins on 11/18/94.

[17] Appendix "K".

[18] Appendix "L".

[19] Appendix "M".

[20] Appendix "O".

[21] Appendix "Q".

(Judge Sparks) granted Defendant's Motion For Summary Judgment on 5/22/97, which is contained in its entirety in Appendix "B". Petitioner timely filed an Appeal to the United States Circuit Court of Appeals for the Fifth Circuit. On 12/5/97, said Court of Appeals affirmed the Judgment of the District Court, which is contained in its Entirety in Appendix "A". The entire extent of the Fifth Circuit's analysis of this Case is contained in the two sentences: **"After carefully reviewing the briefs, record excerpts, and relevant portions of the record itself, we find no reversible error. We affirm essentially for the reasons stated by the district court in its order dated May 22, 1997."**

ARGUMENT

1. In General.

Victims of employment discrimination face a very difficult environment in which to successfully litigate their civil rights in an employment setting **because of the present use of Summary Judgments in Title VII Cases.** This attorney recently had a Federal District Judge tell him (at a meeting) that only approximately 1 in 20 to 1 in 25 Title VII Cases get to a Jury.

Consider the implications of this situation:

1. This means that only 4% to 5% of Title VII lawsuits **that are filed** in Federal Court get to a Jury. I am assuming that the remainder are disposed of by Summary Judgment. A successful litigant then **must still obtain** a unanimous jury verdict that their civil rights have been violated in an employment setting.

2. Potential Plaintiffs that have had their civil rights violated in an employment setting cannot vindicate their civil rights **except** by hiring an attorney **on a contingent basis.** They have been fired, suspended, demoted, terminated, or have been refused a job. Hiring an attorney on a contingent basis is the only feasible way for the typical potential Title VII litigant to vindicate their rights.

3. If we assume that it takes an average of 500 attorney hours and $10,000 in out-of-pocket costs to prepare a typical Title VII Case for trial for an individual litigant, (not counting the additional time and costs necessary to actually litigate the Case) then the break-even point for a trial attorney (**Assumptions are:** the attorney's time is worth $250 per hour; that one in 20 cases (5%) gets to a jury; that a jury grants a favorable verdict in 50% of the Cases that get to a jury; and that the attorney gets a contingent award of 40% of the gross settlement) would be that the gross award in the case the attorney wins at trial would have to equal $13,600,000.00 as follows:

   Billable hours in 40 Cases of which 1 receives a favorable verdict. 38 cases x 500 hours equals 19,000 hours expended in Cases that did not get to a jury. 2 cases x 600 hours equals 1,200 hours expended in Cases that did get to a jury. 20,200 total attorney hours expended in 40 cases should equal a compensation of $5,050,000.00 at $250.00 per hour.

   Costs equal 40 times $10,000 per Case equals $400,000

Therefore the compensation that an attorney receives in the one case in 40 that he wins must fairly compensate him for his time and expenditures in the 39 other Cases

(38 did not reach a jury and one claim received a negative jury decision)

.4X + 10,000 = 400,000 + 5,050,000
X = $13,600,000

For an attorney to be fairly compensated on a contingent basis at a rate of $250 per hour and to recover his costs, the gross award in the one out of 40 cases which the attorney won would need to be $13,600,000. **THIS IS MANIFESTLY IMPOSSIBLE.**

4. The combination of #2 above (that essentially all Title VII Plaintiffs must find an attorney willing to take their case on a contingent basis) and #3 above (that a Plaintiff's attorney is successful in only winning about 1 in 40 cases filed, primarily due to **present Summary Judgment Practice) has a cumulative and catalytic effect,** and that is that **IT IS EXTREMELY DIFFICULT FOR A POTENTIAL TITLE VII PLAINTIFF TO FIND A LAWYER WILLING TO TAKE SUCH A CASE ON A CONTINGENT BASIS BECAUSE OF THE POOR LIKELIHOOD OF THE CASE SURVIVING SUMMARY JUDGMENT AND BEING PRESENTED TO A JURY. THIS MEANS THAT NOT ONLY IS THERE A TREMENDOUS ATTRITION IN TITLE VII CASES *AFTER* THEY ARE FILED, BUT THERE IS ANOTHER TREMENDOUS ATTRITION IN TITLE VII CASES *BEFORE* THEY ARE FILED, AS LITIGANTS CANNOT FIND LAWYERS WILLING TO TAKE THESE CASES ON A CONTINGENT BASIS BECAUSE THEY ARE SO *ECONOMICALLY UNATTRACTIVE.***

I ASSUME THAT THE ATTRITION RATE OF TITLE VII CASES THAT ARE ISSUED A RIGHT TO SUE LETTER BY THE EEOC TO THOSE THAT ARE ACTUALLY

FILED IS 90%. **THIS "DOUBLE-BARRELLED" EFFECT IS DEADLY, AND WOULD PRODUCE AN OVERALL ATTRITION RATE SUCH THAT *ONLY 1 IN 200 TITLE VII CASES THAT ARE ISSUED A RIGHT TO SUE LETTER ACTUALLY REACHES A JURY UNDER THESE ASSUMPTIONS.***

This attorneys inescapable conclusion is that there are no effective employment anti-discrimination Federal laws in the Republic at this time. IS THIS TRUE?

2. **What does it take to get to the Jury in a Racial Discrimination Case under Title VII? Should the Conspirators have referred to the Petitioner as a "Nigger", and if so, how many times?**

We are now in the 3rd phase of racial discrimination in this Country, the 1st phase being slavery, the 2nd phase being racial segregation (separate but equal), and the present phase being the 3rd (Covert Discrimination) and final phase of racial discrimination in this country.

Slavery began in this country with the initial importation of African Americans into this country beginning in early 1600's and ending with the Emancipation Proclamation in 1863. What occurred during the slavery of black Americans is a tale of human suffering and bondage which is beyond the comprehension of modern Americans. Events that happened on a regular and recurring basis were:

1. Blacks were kidnapped; branded with the slaver's mark so their ownership could be readily determined; and then endured a forced march to the

Coast to board a Slaver. Many died of disease and wounds inflicted by the branding.[22]

2. They then had to endure the infamous "middle passage" from Africa to the New World aboard a Slave Ship, chained together below decks like sardines in a can, in the hot, humid, and filthy holds of these ships. Sanitary conditions were non-existent and slaves slept and endured the weeks and months of this passage in their own excrement. Those who resisted were tortured.[23]

3. When arriving in the colonies, they were sold at the auction block to the highest bidder, one by one, husbands were separated from their wives, and children from their parents.[24]

4. As owning slaves became more and more profitable and advantageous during the time period from 1650 to 1700, **slavery became hereditary based on race and color,** and the children of slaves were also born into slavery.[25]

5. Laws were enacted as slave codes prohibiting blacks from earning wages, moving about freely, congregating in groups, seeking education, marrying whites, carrying firearms, resisting punishment, or testifying in Court.[26]

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[22] *The First Passage, Blacks In The Americas, 1502-1617,* by Colin A. Palmer, Oxford University Press, Inc., New York, 1995, pages 34, 35.

[23] *The First Passage,* pages 36 to 38.

[24] *Strange New Land, African Americans, 1617-1776* by Peter H. Wood, Oxford University Press, Inc., New York, 1996, pages 64 and 81.

[25] *Strange New Land,* pages 39 to 41.

[26] *Strange New Land,* page 55.

6. As the necessary justification for this economic exploitation of slaves, racism became the predominant attitude in States where Slavery flourished. Negroes were stupid and of deficient character.[27]

7. The basic economic equation was that Blacks were allowed to live in exchange for their work. The work was hard and unrelenting, clearing lands, building roads, and producing crops as field hands. The average work day was 14 hours per day, 7 days per week.[28]

8. **To enforce this system of injustice the law gave absolute power to the master. Slaves were routinely whipped to get the work production out of them that was desired. The scars from repeated whippings transformed Men's backs into hideous landscapes of convoluted ridges of scar tissue.**[29]

9. Women were routinely raped.[30]

10. Slaves were expected to bow in the presence of whites.[31]

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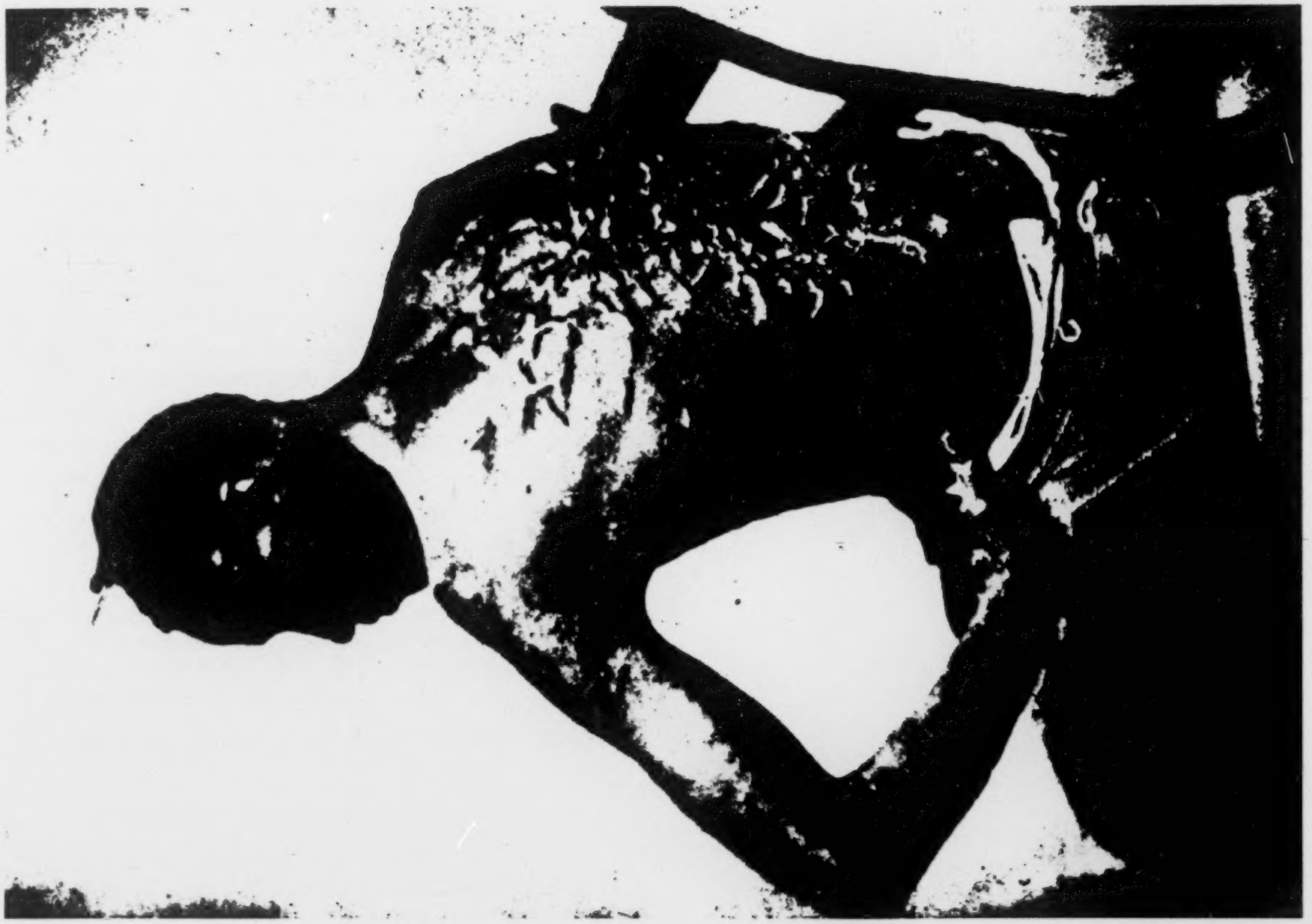
[27] *Strange New Land*, page 57.

[28] *Let My People Go, African Americans, 1804-1860*, by Deborah Gray White, Oxford University Press, Inc., New York, 1996, pages 25 to 27.

[29] *Let My People Go*, pages 31 to 35.

[30] *Let My People Go*, page 35.

[31] *Let My People Go*, page 35.



11. As slavery had become hereditary, slave women were expected to have many children, in order to increase their master's wealth. A barren woman was routinely separated from her husband and sold.[32]

12. When Blacks ran away from their torment, they were beaten, whipped, branded or forced to wear shackles and iron muzzles over their faces.[33]

Our ancestors **chose** to end slavery during the American Civil War with the Emancipation Proclamation of 1863.

The second phase of racial discrimination in this county was racial segregation (separate but equal) which lasted 101 years from 1863 to 1964 with the passage of the Civil Rights Act of 1964. This again was a miserable chapter of discrimination against black Americans in the history of the Republic. Events that occurred on a regular and continuing basis were:

1. Share-cropping became the substitute for slavery. Uneducated ex slaves were routinely cheated by their White landowners.[34]

2. Extreme violence was commonplace as a form of intimidation. "Regulators" would break into a black home and kill someone in front of their family for any reason or no reason at all.[35]

3. Pregnant women were raped and then killed.[36]

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[32] *Let My People Go*, page 45.

[33] *Strange New Land*, pages 95 to 98.

[34] *Though Justice Sleeps, African Americans 1880-1900*, by Barbara Bair, Oxford University Press, Inc., New York, 1997, pages 15 to 18.

[35] *Though Justice Sleeps*, page 19.

[36] *Though Justice Sleeps*, page 19.

4. Segregation ("Jim Crow") laws were instituted by Southern States which segregated Blacks into different schools, restaurants, and theaters. These laws determined if a Black could vote, borrow money, and where he could live.[37] Segregation laws specified separate waiting rooms and bus and train stations, separate hotels, restaurants, restrooms, drinking fountains, schools, libraries, saloons, telephone booths, theaters, doorways, and cemeteries.[38]

5. "Black Codes" made blacks susceptible to petty crimes and once imprisoned, States contracted to sell this forced labor for a profit, which provided a steady stream of income for States that allowed this practice. Discipline was brutal.[39]

6. Blacks were deprived of their Civil and voting rights through the devices like the poll tax, literacy tests, and the requirement to hold property before becoming eligible to vote.[40]

7. Mob Violence and lynchings were common means of controlling Black behavior. Between 1882 and 1901, more than 100 people were lynched each year. The great majority of them were Blacks living in Southern States. Victims were also dragged behind a wagon, beaten, burned, or had parts of their anatomy dismembered.[41] These atrocities were committed by the Ku Klux Klan and other whites, while law enforcement officers looked the other way or became actual participants in the atrocities. Black Americans

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[37] *Though Justice Sleeps*, page 29.

[38] *A Chance to Make Good*, Oxford University Press, Inc., New York, page 56.

[39] *Though Justice Sleeps*, page 45.

[40] *Though Justice Sleeps*, page 65.

[41] *Though Justice Sleeps*, pages 69 to 70.

were routinely beaten and killed by law enforcement officers.

We **chose** to end this infamous chapter of American history with the passage of the Civil Rights Act of 1964.

We are now in the 3rd (Covert Discrimination) and final phase of racial discrimination in this country. The difference between the 2nd phase (Segregation) and the 3rd phase (Covert Discrimination) is as follows:

2nd phase (Segregation)	3rd phase (Covert Discrimination)
Overt	**Covert**
Blatant	**Subtle**
In Your Face	**Under the table**
On the surface	**Under the surface**
Rampant physical abuse and violence	**Occasional physical abuse**
Conventional Warfare	**Guerrilla Warfare**
Hurts More	**Hurts Less (But still hurts)**

People who discriminate in an employment setting ***are not necessarily stupid.*** **They are not going to call a black American a "Nigger" before any witnesses that may testify against them. Instances of this kind of overt (2nd phase) discrimination are exceedingly rare.** ***Defendants and their lawyers*** **are going to come up** ***with plausible pretexts in every instance. Nobody is stupid enough*** **to burn a cross in someone's yard because they want to terminate them or demote them at work.** ***Nobody is stupid enough*** **to wear their Klan robes to work.**

Typical scenarios in the 3rd phase or racial discrimination are that:

1. Some, **but not all,** employees, supervisors, and managers in a Company will harbor racial animosity to other employees, and

2. Seek to not hire, demote, terminate or otherwise discriminate against protected class members on a racial basis, and

3. Attempt to disguise and rationalize these actions through some excuse or pretext, and

4. There will typically not be any clear and unambiguous evidence of either discrimination or non-discrimination in a typical case.

We were exceedingly lucky in this case, to have direct evidence of an overheard conspiracy by one Hispanic male, Arturo Molina, one white female, Diane Feuhs, and one white male, Eddie Eppler, to conspire to terminate the Petitioner and replace her with Ms. Feuhs,[42] who on information and belief, was having sexual relations with Mr. Molina.[43] ***This was an exceedingly rare fluke.***

The Trial Court, in its opinion, did not feel that this direct Summary Judgment evidence of a conspiracy by 3 non-blacks to replace Petitioner with a white female, who was one of the conspirators, raised any legitimate issue of racial discrimination. ***What does it take to get to the jury in a racial discrimination case in this country? It is necessary for the conspirators to have referred to Petitioner as a NIGGER, and if so, how many times?***

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[42] Appendix "G", pages 7 to 11 and 15 to 17.

[43] Appendix "C", pages 10 to 12. Appendix "D", deposition of Arturo Molina, pages 44 to 48 and Appendix "E", deposition of Diane Feuhs, pages 31 to 35.

Where would this case be if this conversation between the conspirators had not been overheard and the direct evidence of a conspiracy to terminate the employment of the Petitioner and to replace her with a white American not been available to be part of the Summary Judgment Evidence in this Case? What standard of Summary Judgment Evidence would have still allowed this Case to survive if this conversation had not been overheard? If this conversation had not been overheard and submitted as part of Plaintiff's summary judgment evidence, I submit to the Court that this Case would have just been another one of many meritorious Title VII cases that would have been routinely disposed of by Summary Judgment, because there would not be any clear and unambiguous evidence of either discrimination or non-discrimination, but only ambiguous facts that could be legitimately viewed as either discriminatory or non-discriminatory.

The use of Summary Judgment to dispose of these situations is fatally flawed in evaluating the Evidence and should be discontinued in Title VII Cases, as the issue ultimately comes down to the credibility of the witnesses and WHO the Jury is going to believe. As there typically is not any clear and unambiguous evidence that can only be construed in one reasonable way, the present use of Summary Judgment is a *defacto aid to the continuance of phase 3 discrimination in this Country. When is the 3rd and final phase of racial discrimination going to end in the Republic? Is it going to take another 101 years?*

3. **Should the inadvertent failure of Petitioner, acting without legal advice of any kind, to check a box marked "sex discrimination" on the EEOC form, deprive Petitioner of her critical substantive rights under Title VII under the doctrine of "exhaustion of administrative remedies" after Petitioner had diligently pursued her administrative remedies with Defendant after her termination pursuant to the 4-step grievance process set out in the "Washington County Personnel Policy Manual", and if so, in what circumstances? *Is this straining out a gnat but swallowing a Camel?* Did the granting of Summary Judgment by the Trial Court for this reason deprive the Petitioner of her due process rights under the 5th Amendment to the United States Constitution?**

When Petitioner filed her "Claim of Discrimination" with the EEOC on 11/18/94, she did not check the box marked "sex discrimination".[44] She did allege racial discrimination under Title VII out of which **sex discrimination flows out of the same sentence** "because of **race,** color, religion, **sex,** or national origin", **and not from a separate Act like Age and Disability discrimination.** By not initially alleging sex discrimination originally, did she deprive the Defendant of any substantive rights or fail to put the Defendant on fair notice of the claim to which they needed to respond?

When Petitioner filed her claim with the EEOC, Petitioner was not represented by an attorney.[45] Petitioner did not claim a sex discrimination cause of action, because it was not clear to her at that time that she had

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[44] Appendix "H".

[45] Appendix "C", page 13.

been discriminated against because of her sex, ***as she had been replaced by another woman*** **(who, on information and belief) had been engaged in a sexual relationship with Arturo Molina. She could not be expected to comprehend that this could legitimately be characterized as sex discrimination, when the same legal issue has been highly contested and controversial in the Courts.** It is abundantly clear that Defendant was well aware that Petitioner had been discriminated against because of sex and was expecting a claim based on sex, as per Molina's initial responsive letter to the EEOC dated 11/29/94 stated that Petitioner was not terminated **"because of the color of her *skin or her gender*".**[46]

The Department of Justice, explicitly authorized Petitioner to sue under any aspect of Title VII, **including sex discrimination,** by its explicit language "you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, **42 USC 2000e et sequel** ("because of such individual's **race,** color, religion, **sex,** or national origin") against the above named Defendant.[47]

Furthermore, the Petitioner diligently pursued her administrative remedies with Defendant Washington County, as set out in the 4-step grievance process contained in the *Washington County Personnel Policy Manual*[48] as follows:

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[46] Appendix "I".

[47] Appendix "J".

[48] Appendix "K".

1. On 11/17/94 (3 days after Petitioner was terminated on 11/14/94), Petitioner sent a letter to Lt. Eddie Eppler as the first step in the grievance process.[49]

2. After Lt. Eppler did not reply, Petitioner sent a letter to Major Arturo Molina as the second step in the grievance process[50], to which Molina replied by letter dated 11/21/94.[51]

3. Petitioner then sent a letter dated 11/28/94 to Sheriff Jankowski as the 3rd step in the grievance process[52], to which Sheriff Jankowski replied by letter dated 12/6/94.[53]

4. Petitioner then sent a letter dated 12/6/94 to County Judge Dorothy Morgan as the 4th step in the grievance process.[54] A hearing was never held by the Grievance Board as required by the Washington County Personnel Policy Manual.

The EEOC actually takes only a small percentage of the Cases filed each year. To say that if Petitioner had checked the box marked "sex discrimination", the EEOC would have litigated her Case, after declining her Case when her Complaint was marked only "race discrimination" is **BLATANT HYPOCRISY and** ***fundamentally unfair. Jesus once chastised the Pharisees for "straining at a gnat, but swallowing a camel". Is the Court going to allow the hypocritical application of the doctrine of "failure to exhaust administrative remedies" to defeat***

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[49] Appendix "L".

[50] Appendix "M".

[51] Appendix "N".

[52] Appendix "O".

[53] Appendix "P".

[54] Appendix "Q".

Title VII substantive rights? **Did the Judgment of the Trial Court, dismissing Petitioner's sex discrimination claim because it "lacked jurisdiction" because of Petitioner's alleged "failure to exhaust administrative remedies", violate Petitioner's constitutional due process rights guaranteed by the Fifth Amendment?**

4. **Are all inferences drawn from Summary Judgment facts to be construed in favor of the Party opposing Summary Judgment?**

This attorney was under the impression that when a Motion For Summary Judgment is filed, all facts are to be construed in favor of the party resisting Summary Judgment. In this Case, there was direct Summary Judgment evidence that Arturo Molina, a Hispanic Male, Diane Feuhs, a white female, and Eddie Eppler, a white male, conspired to terminate Petitioner and replace her with one of the conspirators, Diane Feuhs.[55] If this direct evidence of conspiracy was inferred in the light most favorable to Petitioner, then it should have been inferred to have been generated by racial animosity.

Despite the fact that Petitioner did not originally check the box marked "sex discrimination" in her initial claim with the EEOC, in Defendant's initial reply (Arturo Molina's letter to the EEOC of 11/19/94), Molina, acting on behalf of Washington County, said that Ms. Hoskins had not been discriminated against because of race or **"her gender"**.[56]

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[55] Appendix "C", page 6 and Appendix "G", pages 7 to 11 and 15 to 17.

[56] Appendix "I".

Washington County was well aware at this early date that Ms. Hoskins could have a possible sex discrimination cause of action against the Defendant. These facts should have been construed to mean that Washington County was actually aware that Ms. Hoskins would have a sex discrimination cause of action.

CONCLUSION

When is racial discrimination going to end in this country? Is it going to take another 101 years to eliminate the 3rd phase of discrimination? I submit to the Court that **this Republic cannot afford for EVEN ONE meritorious Title VII Case to be dismissed on Summary Judgment and fail to reach a jury.** Given that summary judgment is particularly unsuited for determining unclear and ambiguous fact situations, which are the norm in Title VII discrimination suits in the 3rd phase of discrimination, and given the importance of eliminating discrimination in the Republic, the only viable alternative is to ***eliminate entirely the use of Summary Judgment in Title VII Cases.*** **WILL THE COURT LEAD THE WAY IN ELIMINATING COVERT DISCRIMINATION IN THE REPUBLIC?**

Respectfully submitted,

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APPENDIX "A"

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 97-50502
Summary Calendar

D.C. Docket No. A-96-CV-614

GLINDA HOSKINS

Plaintiff – Appellant

v.

WASHINGTON COUNTY TEXAS, ET AL

Defendants

WASHINGTON COUNTY TEXAS

Defendant – Appellee

Appeal from the United States District Court for the Western District of Texas, Austin.

Before DUHÉ, DeMOSS and DENNIS, Circuit Judges.

JUDGMENT

(Filed Dec. 5, 1997)

This cause came on to be heard on the record on appeal and was taken under submission on the briefs on file.

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that the judgment of the District Court in this cause is affirmed.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendant-appellee the costs on appeal to be taxed by the Clerk of this Court.

ISSUED AS MANDATE: DEC 30 1997

UNITED STATES COURT OF APPEALS

For the Fifth Circuit

No. 97-50502
Summary Calendar

GLINDA HOSKINS,

Plaintiff-Appellant,

versus

WASHINGTON COUNTY TEXAS, ET AL.,

Defendants

WASHINGTON COUNTY TEXAS,

Defendant-Appellee.

Appeal from the United States District Court
For the Western District of Texas
(A-96-CV-614)

(Filed Dec. 5, 1997)

Before DUHÉ, DEMOSS and DENNIS, Circuit Judges.

PER CURIAM:*

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* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Plaintiff Glinda Hoskins, an African-American female, was employed by the Washington County Sheriff's Department from March 1990 to November 1994. She alleges discrimination based on race and sex in violation of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000e *et seq.*, and 42 U.S.C. § 1981. The district court granted Defendant's motion for summary judgment reasoning Plaintiff had failed to exhaust her administrative remedies with respect to the sex discrimination claim and did not produce evidence proving her discharge was racially motivated with respect to the race discrimination claim.

After carefully reviewing the briefs, record excerpts, and relevant portions of the record itself, we find no reversible error. We affirm essentially for the reasons stated by the district court in its order dated May 22, 1997.

APPENDIX "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS,	§	
Plaintiff	§	
	§	
VS.	§	**NO. A 96-CA-614 SS**
	§	
WASHINGTON COUNTY TEXAS, et al.,	§	
	§	
Defendants	§	

JUDGMENT

(Filed May 23, 1997)

BE IT REMEMBERED on the 22nd day of May 1997 the Court entered an order in the above-styled and numbered cause granting summary judgment for the defendant Washington County, Texas. Pursuant to that order, the Court enters the following final judgment:

IT IS ORDERED, ADJUDGED, AND DECREED that the plaintiff Glinda Hoskins TAKE NOTHING in her claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, 42 U.S.C. § 1981, and the Equal Pay Act, 29 U.S.C. § 206(d)(1), as well as her defamation and intentional infliction of emotional distress claims against the defendants Washington County, Texas, Arturo Molina, Eddie Eppler, and Diane Feuhs, and all costs are taxed to the party incurring the same.

SIGNED on this 22nd day of May 1997.

/s/ Bam Sparks
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS,	§	
Plaintiff	§	
	§	
VS.	§	NO. A 96-CA-614 SS
WASHINGTON COUNTY	§	
TEXAS, et al.,	§	
	§	
Defendants	§	

ORDER

(Filed May 22, 1997)

Before the Court is the defendant's Motion for Summary Judgment [#21] filed on April 23, 1997, to which the plaintiff filed a response on May 5, 1997. The plaintiff Glinda Hoskins is an African-American female who was employed by the Washington County Sheriff's Department from March 1990 to November 1994. Hoskins brings this suit pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII") and 42 U.S.C. § 1981 for race and sex discrimination resulting from her discharge from the Washington County Sheriff's Department.[1]

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[1] The plaintiff originally brought a claim for intentional infliction of emotional distress, a defamation claim and a claim under the Equal Pay Act, 29 U.S.C. § 206(d)(1). The plaintiff voluntarily dismissed these claims in her response to the defendants' motion for summary judgment.

I. Factual Background

On November 18, 1994, the plaintiff filed an administrative charge with the EEOC and the Texas Commission on Human Rights alleging race discrimination against the Washington County Sheriff's Department ("Sheriff's Department") for her discharge on November 14, 1994.[2] Hoskins claims that this is a "classic case" of discrimination in which her excellent performance evaluations suddenly started to suffer after the appointment of a new supervisor, Arturo Molina.

Hoskins began her employment with the Sheriff's Department in 1990 as a jailer. Hoskins had been recommended for hire by J.W. Janowski, who, at the time, was the Jail Administrator and Hoskins' immediate supervisor. Presently, Janowski is the elected Sheriff of Washington County, and, in that capacity, he has ultimate authority over all personnel matters in the Sheriff's

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[2] The Washington County Sheriff's Department is not a legal entity capable of being sued, so the plaintiff correctly sued Washington County, Texas in its place. Although the Sheriff of Washington County occupies a constitutional office, and thus may be sued independently, a county can be held liable for the actions of its sheriff without "run[ning] afoul of *Monell*'s admonition against *respondeat superior* liability on the part of the county for the actions of its employees." *Vera v. Tue*, 73 F.3d 604, 609 (5th Cir. 1996) (*quoting Turner v. Upton County, Tex.*, 915 F.2d 133, 137 (5th Cir. 1990), *cert. denied*, 111 S. Ct. 788 (1991). The plaintiff originally sued Arturo Molina, Diane Feuhs, and Eddie Eppler as well, but these defendants apparently have been voluntarily dismissed by the plaintiff in her second amended complaint.

Department, including hiring and firing.[3] The plaintiff received favorable performance evaluations under Ken Hughes, Janowski's replacement as Jail Administrator. In fact, Hoskins received a promotion in February 1994 to Assistant Jail Administrator, the second-highest ranking position within the jail. Hughes resigned his position with the Sheriff's Department in May 1994 and was briefly replaced by Eddie Eppler, who was appointed Acting Jail Administrator in June 1994. In August 1994, Janowski permanently hired Molina as Jail Administrator and reorganized the jail staff by creating two new assistant positions rather than the one which had been held by Hoskins. Eppler was hired as Lieutenant of Detention, and the plaintiff was reassigned to Lieutenant of Administration. Despite the change in title, Hoskins' salary and job duties remained the same, although technically she did receive a promotion. It appears from the summary judgment record that Hoskins and Eppler were ranked equally in seniority, as they both reported directly to Molina.

The plaintiff claims that, shortly after Molina began his tenure as Jail Administrator, there was a conspiracy among Molina, Eppler, and a female jailer named Diane Feuhs to push Hoskins out of her position and replace her with Feuhs.[4] Hoskins alleges that Molina, who is

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[3] When Janowski became Sheriff, he required all employees to reapply for their current positions. He decided to rehire Hoskins at that time based on his personal knowledge of her work.

[4] A jailer and co-worker named Richard Johnson claims to have overheard a conversation in which Molina, Eppler and Feuhs were plotting to have Hoskins terminated.

Hispanic, and Feuhs, who is white, were motivated to have Hoskins terminated because Molina and Feuhs were having an affair. The plaintiff further claims that the proffered reasons for her discharge and her disciplinary record are a pretext for race and sex discrimination. In support of her claim, Hoskins establishes that, since her discharge, Feuhs received a substantial salary increase and has assumed Hoskins' former job responsibilities.[5]

The defendant asserts two grounds for summary judgment. First, the defendant seeks to dismiss the sex discrimination claim on jurisdictional grounds, arguing that the plaintiff has failed to exhaust her administrative remedies since she did not specifically allege sex discrimination in her EEOC charge. Second, the defendant argues that the plaintiff failed to establish a *prima facie* case of discrimination, or, alternatively, that the plaintiff failed to produce any evidence establishing that the defendant's proffered reasons for discharging her were pretext for discriminatory motives. For the reasons set forth below, the Court finds that the defendant's motion is meritorious and should be granted.

I. Failure to Exhaust Administrative Remedies

In addition to the original race discrimination claim alleged in her administrative charge, the plaintiff now seeks to assert a claim based on sex discrimination. A plaintiff need not raise every allegation of discrimination in an administrative charge in order to bring a civil

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[5] According to the defendant, Feuhs's current title is jailer/clerk; Hoskins' former position as Lieutenant of Administration was abolished.

action. In *Dollis v. Rubin*, 77 F.3d 777 (5th Cir. 1995), the Fifth Circuit reiterated the standard by which plaintiffs are deemed to have complied with Title VII's exhaustion requirement: A Title VII action "may be based, not only upon the specific complaints made by the employee's initial EEOC charge, but also upon any kind of discrimination like or related to the charge's allegations, limited only by the scope of the EEOC investigation that could reasonably be expected to grow out of the initial charges of discrimination." *Id.* at 781. The Fifth Circuit stressed that this is a liberal standard designed to protect persons who make administrative charges without the benefit of counsel. *Fine v. GAF Chemical Corp.*, 995 F.2d 576, 578 (5th Cir. 1993). An important competing concern, however, is the purpose behind the exhaustion requirement – to give employers notice of pending claims and to encourage voluntary and informal compliance with employment anti-discrimination statutes. *See, e.g., Rush v. McDonald's Corp.*, 966 F.2d 1104, 1110 (7th Cir. 1992).

The Court concludes that the plaintiff's sex discrimination claim is not reasonably related to her original administrative charge and the subsequent EEOC investigation. It is undisputed that the plaintiff did not specifically allege sex discrimination in her EEOC charge form. At the top of the EEOC charge form are several boxes in which complainants may indicate the type of discrimination they claim to have suffered. Hoskins checked the box marked "RACE" but did not check the box marked "SEX." In light of the Fifth Circuit's lenient pleading standard, this omission is not necessarily fatal to her sex discrimination claim. There are, however, no direct or indirect allegations of sex discrimination in the totality of

Plaintiff's EEOC charge. Reprinted in its entirety, Hoskins' merely alleges the following in her administrative charge:

> On October 19, 1994, I was placed on two-weeks suspension without pay. On November 14, 1994 I was discharged.
>
> I believe I have been discriminated against because of my race (Black), in violation of Title VII of the Civil Rights Act of 1964, as amended.

Clearly, Hoskins put forth no facts in her administrative complaint that would have triggered an investigation into sex discrimination. Furthermore, Hoskins' claims for race discrimination and her general reference to Title VII are likewise insufficient to trigger an administrative investigation into a sex discrimination claim. Contrary to the plaintiff's assertions, race and sex discrimination are two different animals, and one cannot reasonably be said to encompass the other. Federal courts in other circuits, using the same standard as the Fifth Circuit and considering the same policies underlying the exhaustion requirement, have unanimously come to same conclusion as this Court. *See, e.g., Lowe v. City of Monrovia*, 775 F.2d 998, 1004 (9th Cir. 1985), *amended by* 784 F.2d 1407 (1986) (dismissing sex discrimination claim where EEOC complaint only alleged race discrimination); *Van Blyenburgh v. Abbott Laboratories*, 888 F.Supp. 78, 81 (N.D.Ill. 1995) (dismissing discrimination claim based on national origin because such a claim is not sufficiently related to discrimination based on age and disability); *Drummer v. DCI Contracting Corp.*, 772 F.Supp. 821, 826 (S.D.N.Y. 1991) (dismissing discrimination claim based on religion where EEOC

charges only encompassed allegations of sex discrimination). This Court therefore lacks jurisdiction to hear Hoskins' sex discrimination claim due to her failure to exhaust her administrative remedies with respect to that claim.

II. Race Discrimination Claim

In order to establish a *prima facie* case of employment discrimination, the plaintiff must either produce direct evidence of an employer's racial animus or, if directed proof is lacking, produce enough facts to implicate the burden-shifting framework of *McDonnell Douglas Corp. v. Green*, 93 S. Ct. 1817 (1973). The *McDonnell Douglas* burden-shifting scheme "creates a presumption that the employer unlawfully discriminated against the employee" if the plaintiff proves that (1) she was a member of a protected class; (2) she suffered an adverse employment action; and (3) non-protected class employees were not treated similarly. *See St. Mary's Honor Center v. Hicks*, 113 S. Ct. 2742, 2747 (1993). Once the plaintiff establishes this *prima facie* case, the burden of production shifts to the employer to articulate legitimate, non-discriminatory reasons for its decision to discharge the plaintiff. *See id.* at 2747. If the employer meets this burden, the burden of production then shifts back to the plaintiff to prove that the proffered reasons for any allegedly unequal treatment are a pretext for unlawful discrimination. *See id.* at 2749, 2753. At all times, however, the plaintiff bears the burden of *persuasion* – that is, persuading the trier of fact that the defendant intentionally discriminated against the plaintiff. *See id.* at 2749.

The plaintiff has established a *prima facie* case of employment discrimination: Hoskins is African-American, she was discharged from a position for which she was qualified, and a white woman, Feuhs, was apparently hired in her place. The defendant, however, has produced several legitimate, non-discriminatory reasons for her termination to rebut the presumption of race discrimination. Namely, the defendant states that Molina and Hoskins had a personality conflict that made it difficult for them to work together. Hoskins admitted in her deposition that she disagreed with some of the policy changes instituted by Molina after his arrival at the jail and that she discussed these disagreements with other employees. Janowski stated in his affidavit that this "open dissension" was "disruptive and unacceptable" to him and that it "was a major factor in the decision to terminate her." Janowski emphasized the common sense proposition that it is difficult to manage a correctional facility when one of the two principal assistants displays a hostile and uncooperative attitude.

The defendant further asserts there were some deficiencies in Hoskins' job performance. Specifically, Janowski claims that the plaintiff submitted "irregular and possibly fraudulent" documents to a state agency and that she failed to comply with department policy concerning outside employment. The plaintiff's most serious infraction, and the incident for which she was suspended for two weeks prior to her discharge, appears to be her violation of department policy by seeking information on obtaining a personal bond for Tracy Vasquez, a former coworker, who had been arrested. According to Janowski, the Sheriff is the only individual allowed to make such

inquiries on behalf of the department. Hoskins admits that she made the inquiry, and, in fact, the telephone conversation in which she does so was introduced into the summary judgment record. According to Janowski, this incident, together with Hoskins' lack of forthrightness about her role in the matter, led to her suspension.[6]

Significantly, the plaintiff's own theory of the case defeats her race discrimination claim. Hoskins insists that her discharge was the result of a conspiracy among Molina, Feuhs, and Eppler to replace Hoskins with

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[6] According to Janowski, Eppler was aware of Vasquez's arrest but, in violation of department policy, had agreed not to inform him or Molina about it. When Eppler was confronted, he admitted his involvement and received a reprimand rather than a suspension. Hoskins states that this is evidence of disparate treatment. The Court finds it is not. Eppler did not make any telephone inquiries about the procedure for obtaining a bond on Vasquez's behalf. Furthermore, Janowski indicates that Hoskins' suspension was due as much to "her refusal to acknowledge her mistakes" as it was to the incident itself.

Hoskins attempts to provide other instances of disparate treatment. For instance, she claims that she was required to punch a time clock and was subject to a six-month probationary period upon receiving her promotion to Lieutenant, that her salary was lower than Eppler's, and that she perceive that Molina, Eppler, and Feuhs excluded her. By the plaintiff's own admissions, the first two examples of disparate treatment – punching the time clock and the six-month probationary period – were applied to other employees, and they therefore defy the label "disparate treatment" The lower pay is attributable to the fact that Hoskins and Eppler have different job responsibilities and because Eppler, unlike Hoskins, is required to be on call 24 hours a day. As for Molina, Eppler, and Feuhs excluding Hoskins, Hoskins admits that she did not get along with Eppler or Feuhs and that she suspected Molina and Feuhs of having an affair. Go figure.

Molina's girlfriend, Feuhs. Even assuming this allegation is true, it is utterly irrelevant to a race discrimination claim. The Supreme Court in *St. Mary's* specifically addressed this point when it affirmed a district court's conclusion that, although the plaintiff had "proven the existence of a crusade to terminate him, he ha[d] not proven that the crusade was racially rather than personally motivated." *Id.* at 2748. The same conclusion is appropriate here as well. Based on the plaintiff's own allegations, Hoskins has merely established that her termination may have been unfair and immoral – but certainly not illegal. Moreover, it is undisputed that Hoskins was an at-will employee, which meant that the plaintiff could have been terminated for any reason – including an arbitrary and capricious one – or for no reason at all, as long as the discharge was not in contravention of Title VII's prohibitions. Additionally, Janowski, as Sheriff, was in charge of all employment decisions, including Hoskins' termination. Hoskins presents no evidence – and, in fact, does not even allege – that Janowski was motivated to terminate her because of racial animus. Even if Janowski acted upon Molina's recommendation, which Janowski denies, Hoskins' termination undisputedly was Janowski's decision to make. Janowski indicates in his affidavit that Hoskins' poor attitude and poor work performance were the sole reasons for her dismissal.

The only evidence Hoskins presents that her discharge was racially motivated is her own contention that she was fired because of her race and the general assertion by Richard Johnson, her co-worker, that Molina is

prejudiced against African-Americans.[7] The plaintiff's belief that she was discharged because of her race, regardless of how firmly and honestly it is held, is insufficient to support an inference of racial discrimination. People are not entitled to recover judgments simply because they honestly believe they have been wronged; they must prove it. Often it is difficult to muster up enough evidence of an actual wrongdoing to prove it occurred, especially when state of mind is the primary issue. The law has evolved dramatically to take into account such difficulties by allowing for reasonable inferences to be drawn from circumstantial evidence when no "smoking gun" can be found. For example, a trier of fact could infer racial discrimination from a pattern or practice of discrimination.[8] *See Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 335-36, 97 S. Ct. 1843, 1854-55 (1977). The plaintiff, however, failed to produce any facts establishing that race discrimination was the defendant's "standard operating procedure – the regular rather than the unusual practice." *Id.* The plaintiff's subjective belief that she was terminated because of her race, coupled with Johnson's general assertion that Molina is racist, are slim reeds upon which to infer race discrimination in this

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[7] Significantly, other than his own perceptions, Johnson could not recall any instances in which Molina took any action against African-Americans or in which he stated something to indicate that he was prejudiced against African-Americans.

[8] For the record, Janowski specifically denies having a pattern or practice of race discrimination in employment decisions. This uncontroverted assertion is partially borne out by the fact that Janowski recommended Hoskins for hire in the first place and promoted her.

particular case. They are, at best, anecdotal instances of racial bias or discrimination. It is well-established, however, that the "mere occurrence of isolated or 'accidental' or sporadic discriminatory acts" is not enough to show a pattern or practice of discrimination. *Id.* at 336, 97 S. Ct. at 1855.

Whether the defendant fired the plaintiff because she is African-American can never be known with absolute certainty. One thing is certain, however: there is an utter lack of evidence on the issue. The plaintiff did not proffer any direct evidence of racial animus or any statistical or other evidence from which a trier of fact could reasonably find or infer racial discrimination in her case. Rather, she offered only a few subjective personal perceptions and a convincing motive wholly unrelated to a race discrimination claim. Therefore, the plaintiff's Title VII claim fails as a matter of law, as does the plaintiff's civil rights claim under 42 U.S.C. § 1981. *See Patterson v. McLean Credit Union*, 109 S. Ct. 2363, 2377-2378 (1989) (applying the *McDonnell Douglas* burden shifting framework to claims under § 1981).

For the foregoing reasons, the Court enters the following orders:

IT IS ORDERED that the defendant's Motion for Summary Judgment [#21] is GRANTED;

IT IS FURTHER ORDERED that the plaintiff's Motion for Reconsideration [#30] is DISMISSED AS MOOT; and

IT IS FINALLY ORDERED that the plaintiff's Motion to Strike Defendant's Reply to Plaintiff's Response to

Defendant's Motion for Summary Judgment [#31] is DISMISSED AS MOOT.

SIGNED on this 22nd day of May 1997.

/s/ Bam Sparks
UNITED STATES DISTRICT JUDGE

APPENDIX "C"

AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

Came on before me on this day, Glinda Hoskins, a person known to me, who swore to me on her oath:

"My name is Glinda Hoskins. I was born on 2/20/57 and am physically and mentally capable of making this affidavit. I have personal knowledge of the facts contained herein and they are true and correct. The documents attached to this affidavit and made a part hereof for all purposes (Exhibits "A" through "Z") are true and correct copies of the original documents.

I am a black American female and live in Brenham, Texas. I grew up in Washington county; went to Brenham High School, where I graduated in 1975; and went to Blinn Junior College for 2 years, where I graduated in 1977 in elementary education. I am a single mother with three children, Gabriel; Steven; and Cherie. The only income I receive other than from my jobs at the Brenham State School and my part-time job at Wal-Mart is child support at $200 per month. I presently work at the Brenham State School where I am a MHMR Specialist 1 and I gross $1,261 per month at this job. I am second in command of a cottage of 16 individuals, who are mentally retarded and need assistance. I supervise staff and also directly take care of non-ambulatory and mentally incapacitated individuals. In addition, in order to generate additional income for my family, I work at Wal-Mart in

Brenham as a cashier approximately 20 hours per week where I make $6.31 per hour.

I started to work for the Washington County Sheriff's Department in March of 1990 as a jailer at an initial salary of $1,050 per month. I did not have any administrative duties at that time. I worked for Ken Hughes, who was in charge of the jail, first as chief deputy for Sheriff Rosenbaum, and who was then appointed jail administrator by Sheriff Jankowski in 1993, when he was elected Sheriff. I worked under Ken Hughes from 1991 to the day he resigned on 5/12/94, approximately 3.5 years. During the more than 3 years I worked for Ken Hughes, I received consistently good verbal evaluations from Mr. Hughes, (except for one time that I was disciplined in 1991) and he gradually increased my duties over time. I was then appointed as Assistant Jail Administrator in February of 1994 as shown by the notice to the county Treasurer dated 2/21/94 (a true and correct copy of which is attached hereto and made a part hereof for all purposes as Exhibit "A"). My salary was increased to $1250 per month at that time. My responsibilities as Assistant Jail Administrator, in addition to dealing directly with inmates, were:

1. I handled the TDC transfer papers
2. Scheduled work hours for jail staff
3. Generated timesheets of jail staff to be paid.
4. Handled P.I.A. papers (Parole In Absentia)
5. Was responsible for inmate commissary and inmate accounts)
6. Reviewed Bonds (along with other jailers)
7. Helped to interview the hiring of jail staff

8. Was on call for help if someone at the jail had a problem.

When I received my promotion to Assistant Jail Administrator, I noticed that Eddie Eppler appeared to not be taking my promotion very well. At a meeting in Ken Hughes office, when informed of my promotion, Eddie made the comment that "he (Eddie) was doing the things that he was asked to do in his interview, working with a woman (Glinda) and taking order from a black woman (Glinda)". His comment made me feel like he had something against working with women and in taking orders from a black woman. I felt that Eddie was prejudiced against blacks and women. After I was promoted to Assistant Jail Administrator, Eddie started making comments to me "that I wasn't doing anything and was just drawing a paycheck" (as more fully set out in my notes in my handwriting, a true and correct copy of which is attached hereto for all purposes as Exhibit "B", page 3.,). I felt that he was jealous that I had been promoted and not him and continued to feel that he was prejudiced against blacks and women.

I had very little contact with Diane Feuhs, another jailer, prior to the time that Ken Hughes left in May of 1994. However, I did observe that Ms. Feuhs was prejudiced against black Americans from the way she treated inmates. When she was escorting black prisoners somewhere, she would make them walk in front of her and she would not talk to them. On the other hand, when she was escorting white prisoners or Hispanics somewhere, she would walk side by side with them and carry on a conversation. I noticed this several times, and there was a definite difference in the way she treated inmates based

on their race. There was also a distinct difference in the tone of her voice in the way she talked to White and Hispanic prisoners and black prisoners in that she talked to black prisoners in a sharp and curt tone of voice.

I never had any complaints made to me about my work as Assistant Jail Administrator by Sheriff Jankowski or anyone else until Arturo Molina was appointed as Jail Administrator on 8/22/94. In fact, when Sheriff Jankowski interviewed all employees when he became Sheriff on 1/1/93, he told me that "the inmates did not like me very much, but that I was a good employee." I took that to be a compliment. I was there to do a job and not to run a popularity contest with the inmates.

When Ken Hughes resigned on 5/12/94, my position was the only assistant jail administrator. Eddie Eppler's position at that time was "work crew boss", supervising inmates on work details outside of the jail. Sheriff Jankowski, instead of appointing me as acting Jail Administrator, appointed Eddie Eppler as acting Jail Administrator in June of 1994, even though I was much better qualified to assume those duties at the time than Eddie Eppler. Sheriff Jankowski did not even interview me or talk to me about the position of Acting Jail Administrator. I felt that I had been intentionally overlooked by Sheriff Jankowski because I was female and black. After Eddie became Acting Jail Administrator, he had a very rude manner towards me, and would spend a lot of time with the Sheriff in his office, but he never included me in those meetings or would tell me what had transpired in those meetings as it affected jail operations. Diane Feuhs, a jailer, would go directly to Eddie Eppler if she needed anything and not come to me. She was continually in his

office. I felt that Diane Feuhs was prejudiced against me because I was black in that she would not have anything to do with me.

Arturo Molina was then hired by Sheriff Jankowski as Jail Administrator on 8/22/94. I was ready to give him my full support as the incoming jail administrator. Immediately, Mr. Molina appointed Eddie Eppler as a Lieutenant of Detention and myself as a Lieutenant of Administration ("Exhibit "B", page 3.) Almost immediately, I felt I was being discriminated against by Mr. Molina in that:

1. I was informed that I (along with all other employees) had to start punching a time clock. Why was I, a lieutenant, a salaried, supervisory, exempt employee (Exhibit "A"), being forced to punch a time clock? I believe that Molina was just trying to document if I would be tardy in coming to work, so he could have an excuse to discipline me.

2. I was working on the 1995 Jail Budget. Initially, Eddie and I were put down for the same salary as lieutenants, but when the Budget was finished in September and ready to submit, Eddie Eppler was the only lieutenant put down while I was put down as a Secretary and Eddie was to make $100 more per month than me (Exhibit "B", page 4). Mr. Molina was responsible for the jail budget recommendations for 1995 to go to the Sheriff. I talked to Molina about this, and he said that Commissioner's Court would only approve one lieutenant's slot and that they wanted me to be a Secretary. I was angry and upset. I thought that Molina was discriminating against me at the time because I was black and a woman.

3. Molina informed me at another meeting that Eddie Eppler and I were being put back on a 6 month

probationary period (as more fully set out in Exhibit "B", page 4) because we had been promoted. This was not true. My title had changed from Assistant Jail Administrator to Lieutenant of Administration but that was all. My duties had not changed and my pay had not changed. This was a sham promotion. I felt I was being made a target because I was black and a woman.

4. I also noticed that Eddie Eppler and Diane Feuhs were spending a lot of time with Molina in his office. I was excluded from these meetings and not informed of what had been discussed in these meetings.

5. Diane Feuhs started coming in my office and asking me questions about my job and my administrative duties beyond which she needed to know. Arturo Molina then told me to teach Diane everything I knew about my job (Exhibit "B", page 9.)

Then, on 10/18/94, while I was working at my part-time job at Wal-Mart, I was informed by Sharon Pendergraff, another black female jailer, that Richard Johnson had told her that there was a conspiracy against me between Eddie Eppler, Diane Feuhs, and Arturo Molina to get rid of me so that Diane Feuhs could have my job (as more fully set out in my handwritten notes, a true and correct copy of which are attached hereto and made a part hereof for all purposes as Exhibit "C"). I was also told by Sharon that Richard Johnson had told her that Eddie Eppler had said that "it had to look like he had nothing to do with it". I was shocked and upset. **I was then suspended for two weeks without pay on 10/19/94, the very next day, which proved that what Richard Johnson said about a conspiracy was true.** In the Sheriff's office, with Sheriff Jankowski present, Mr. Molina

gave me a "Notification of Disciplinary Action" ("Exhibit "E") and told me that I was being suspended for two weeks without pay. He mentioned the paperwork about Mr. Burnett and Mr. Wills and said I had broken the chain of command about this incident. I felt I was being discriminated against because I was black and a female. Even the way it was handled was discriminatory, as since my suspension did not start until October 20, 1994, I had to finish out the day at work while being extremely upset.

This document is not the reason I was suspended. I was suspended because Eddie Eppler, Diane Feuhs, and Arturo Molina were conspiring against me to get me terminated. This document is part of the conspiracy to get me terminated. It states that I was being suspended for the following reasons:

1. "Conducted yourself in a non-professional and libelous manner." I have never conducted myself in a non-professional and libelous manner while working at the Washington County Sheriff's Department. Neither Molina or anyone else ever mentioned this to me that I had a problem in this area prior to receiving this letter from Molina (Exhibit "E").

2. "Poor work ethics and judgment" I have never had poor work ethics and judgment while working at the Washington County Sheriff's Department. Neither Molina or anyone else ever mentioned this to me that I had a problem in this area prior to receiving this letter from Molina (Exhibit "E").

3. "Not informing the Sheriff or myself of the arrest of an employee of this Department and asking for a personnel Recognizance Bond shows a lack of leadership and responsibility." This is not true, (as more fully set out in Exhibit "B", pages 5, 6, Exhibit "C",

pages 2, 3, 4 and Exhibit "D" pages 1, 2, 3). I did not ask for a personnel Recognizance Bond for Tracy Vasquez, although he did call me, since I was on duty at the time, and we did discuss the possibility of a Personnel Recognizance Bond. I did not ask the Judge of Waller County who granted Tracy a PR Bond or anyone else, to grant a PR bond For Tracy Vasquez and to this day do not know how he got such a bond. **I did inform Eddie Eppler, one of the co-conspirators, about Tracy Vasquez being arrested, when he called me at approximately 8:00 A.M. on the morning of 10/12/94 and he was with Molina and Sheriff Jankowski all morning at a class at Huntsville, yet did not tell them about Tracy's arrest. All that Eddie Eppler received for punishment was a verbal warning, although Eddie Eppler denies this, and there is nothing is his personnel file. He was not suspended or terminated.** I could not inform the Sheriff or Molina because they were at a class in Huntsville at Sam Houston State University on 10/12/94 with Eddie Eppler and Diane Feuhs. I did inform both Eddie Eppler, who was with the Sheriff, and Floyd Mathis, an investigator who worked with the Sheriff.

4. "Non-caring attitude on the issue of Mr. Wills and Mr. Barnett. This is not true as more fully set out in Exhibit "B", pages 6, 7 and Exhibit "C", pages 3 and 4. I was constantly asking both Mr. Wills and Mr. Barnett to supply the necessary paperwork, so I could send in their completed applications to TCLOSE. I did everything I could to expedite these matters.

5. "Poor work ethic and lackluster attitude" This is not true. I have never had a poor work ethic or lackluster attitude while working at the Washington County Sheriff's Department. Neither Molina or anyone else ever mentioned this to me that I had a problem in this

area prior to receiving this letter from Molina (Exhibit "E").

6. That I violated Personnel Policy Numbers:

   A. **Probation #9** ("If a promoted employee cannot meet the required standards of the new position, the employee may be discharged or may be restored to the position from which he/she was promoted or to a comparable position.) This is not true. I did not receive a real promotion. It was a sham. Only my title changed. My duties and my pay did not change. Mr. Molina had not informed me that I was not meeting the standards of a Lieutenant of Administration prior to receiving this letter. **Probation #10** ("Demoted employees shall be subject to a probationary period in their new capacities and reduced pay for a period of up to 60 days"). This is not true. I had not been demoted that I was aware of.

   B. **Policy on Outside Employment #1** ("An Employee of Washington county shall not engage in any activity or other employment which will adversely affect his/her ability to effectively carry out the duties and responsibilities of his/her job.") This is not true. I had taken a part-time job at Wal-Mart, but it was only 3 or 4 evening per week and was not interfering with the performance of my job at Washington County. I never missed work and always reported for work on time. Mr. Molina had not informed me that I was not meeting the standards of my job and that I should not be obtaining any outside or part-time employment prior to receiving this letter. **Policy on Outside Employment #2**

("An employee accepting other employment while still being employed by Washington county shall notify his/her supervisor before beginning such work except in instances where the work may be occasional or casual"). While it is true, that I did not notify anyone when I took my job with Wal-Mart in October, this was because it was casual employment and not interfering with anything at my job at Washington County. Mr. Molina had not mentioned to me that this was a problem prior to when I received this letter. Also, from handling the personnel files of the jailers, I know that at least 50% of the jailers had part-time jobs and none of them had written notices in their personnel files (Exhibit "C", page 5). I was not advised to have a written notification of an outside job until I was suspended on 10/19/97.

C. **Policy on Conflict of Interest #1** ("An employee of Washington County shall not engage in any employment, relationship, or activity which would affect his/her job efficiency or which would reduce his/her ability to perform his/her work and responsibility as a county employee."). This is not true. (Exhibit "B", page 7, and Exhibit "C", page 5). My employment at Wal-Mart did not adversely affect my job at the Sheriff's Department, as I went to work at Wal-Mart after I got off from work at the Sheriff's office. Mr. Molina had never mentioned to me that my part-time job had affected my job efficiency prior to receiving this letter.

7. I was also instructed in this letter to provide a letter stating where and when I worked outside employment,

which I did when I returned to my job, as shown by Exhibits "F", "G", and "I".

While I was on my two week suspension from 10/20/97 to 11/7/97, I heard that Eddie Eppler and Diane Feuhs were handling my duties and that the personnel files that I had been handling had been taken out of my office. When I got back to work, I confirmed that this was true. On 11/8/94, at my job at Wal-Mart, Adam Nunes, a jailer, came up to me and told me about his relationship with Diane Feuhs; how they had broken up; how she was seeing someone else; and how he had caught Diane and Molina together two times (Exhibit D, page 4). I was completely shocked. I became really suspicious that Diane Feuhs and Arturo Molina were having an affair, and thought about what had happened.

1. Immediately after Molina came to work in August of 1994, he asked both me and Sharon Pendergraff "What kind of Men we liked". I was shocked and surprised that a new supervisor that had been on the job only a few days would make that kind of comment to us. It seemed to me that he was testing us to see if either one of us would be interested in dating him.

2. Sharon Pendergraff had told me that Molina had asked her in his office, "Where did she live", because he had a friend from Harris county coming up that did not have a place to stay. This indicated to me that Molina thought that women were good for only one thing, namely sex.

3. At another meeting in Molina's office, he told me that "he didn't have time to unpack and that he didn't know what he was going to do". I told him that perhaps he needed to take some more time off. I

thought that he was testing me to see if I would come over to his house to have sex.

4. I then thought back about how Diane Feuhs had changed her behavior when Arturo Molina came to be Jail Administrator in that she started wearing her hair down instead of in a pony tail, she started wearing makeup to jail; she started staying late after her shifts were done and coming in on her days off, which she never had done before. She started spending a lot of time in Molina's office.

To confirm these suspicions, a friend of mine, Ladonna Rich and myself, went by Molina's house on Veteran's day weekend (11/11/94 to 11/13/94) to see if Diane was at Molina's house. She was there on 11/11/94 and 11/12/94 as the pictures of her car (Exhibit "I") show. **My suspicions were now confirmed and I knew that I had been suspended and would probably be fired, so that Diane Feuhs could take over my duties, a white woman whom Arturo Molina was having an affair with.**

Immediately after this weekend, on 11/14/94, I was terminated by Arturo Molina pursuant to that certain letter dated 11/14/94 (Exhibit "J"). This letter is not true. I never requested from anyone that they grant Tracy Vasquez a PR bond. I appealed my termination through the grievance procedure of Washington County as set out in Section 7.01 through 7.04 of the Washington County Personnel Manual (a true and correct copy of which is attached hereto as Exhibit "K") by:

1. Sending a Memo to Lt. Eddie Eppler on 11/17/94 (First Step of Grievance Procedure). (a true and correct copy of which is attached as Exhibit "L")

2. Sending a Memo to Major Molina (Second Step of Grievance Procedure), a true and correct copy of which is attached hereto as Exhibit "M".

3. Major Molina responded to my Memo with his letter dated 11/21/94 (a true and correct copy of which is attached hereto as Exhibit "N").

4. Sending a Letter to Sheriff Jankowski dated 11/28/94 (Third Step of Grievance Procedure), a true and correct copy of which is attached hereto as Exhibit "O").

5. Sheriff Jankowski responded to this Letter with his letter dated 12/6/94 (a true and correct copy of which is attached hereto as Exhibit "P").

6. Sending a Letter to County Judge Dorothy Morgan (Fourth Step of Grievance Procedure), a true and correct copy of which is attached hereto as Exhibit "Q". I also personally talked to Dorothy Morgan about this situation. She asked me if I had already sent a Complaint to the EEOC and I told her that I had. She then said words to the effect "they you do what you have to do, and we will do what we have to do".

7. Contrary to County Policy as set out by the Grievance Procedure, the Grievance Board did not meet the consider my appeal and claim.

I filed a Complaint with the EEOC alleging discrimination on or about 11/18/94, a true and correct copy of which is attached hereto as Exhibit "R". I filed this Complaint on my own without any assistance from a lawyer.

I was extremely upset about being discriminated against, suspended, and then terminated. I cried constantly during the next week. Not only did this termination hurt me emotionally, but it hurt me financially as well. I was late on my bills. I had to draw out my

retirement to pay bills and to give my kids a Christmas. I kept working at my part-time job at Wal-Mart and finally found another full time job at the Brenham State School in February of 1995, where I have been ever since. Since I have started at the Brenham State School, I have received consistently excellent evaluations as shown by the attached documents:

1. Performance Review dated 5/19/95 (Exhibit "S")
2. Memorandum dated 7/29/95 (Exhibit "T")
3. Memorandum dated 9/20/95 (Exhibit "U")
4. Memo dated 5/26/96 (Exhibit "V")
5. Memo dated 6/3/96 (Exhibit "W")
6. Memo dated 6/7/96 (Exhibit "X")
7. Memo dated 6/11/96 (Exhibit "Y")
8. Memo dated January, 1997 (Exhibit "Z") from Debra Green

Note: I had not seen and was not aware of the existence of either the letter to the EEOC from Arturo Molina dated 11/29/94 or the Employee Status Form written by Eddie Eppler dated 11/14/94 (Exhibits 14 and 20 respectively of

Plaintiff's "Answer To Defendant's Motion For Summary Judgment".

/s/ Glinda F. Hoskins
Glinda Hoskins

Sworn to before me on this the 3rd day of May, 1997

/s/ Booker T. Hogan, Jr.
Notary Public,

(SEAL) BOOKER T. HOGAN JR.
NOTARY PUBLIC
State of Texas
Comm. Exp. 08-11-99

APPENDIX "C1"

October 19, 1994

To: Lieutenant Glinda Hoskins

Via: Chain of Command

Reference: Notification of Disciplinary Action

This is to inform you that you have violated several Department Policies, along with conducting yourself in a non-professional and libelous manner. You have also shown poor work ethics and judgement in your manner of dealing with personnel as well as detainee's. In not informing the Sheriff or myself of the arrest or nature of the arrest of an employee of this Department and taking it upon yourself to ask for a Personal Recognizant bond for said employee, shows a lack of leadership and responsibility.

In your mishandling of such an important matter and your non-caring attitude of this issue of Mr. Wills and Mr. Barnett, shows a flagrant disregard for this Department, this Administration and your career. I have been willing to overlook some minor problems in the past because of Administrative changes, but your poor work ethic and lackluster attitude necessitates this action. You have violated Washington County Personnel Policy Numbers. Probation #9 and #10, Policy on Outside Employment #1 and #2 and Policy Conflict of Interest #1, because of this reason you are hereby notified that you are placed on suspension without pay for two (2) weeks. This is to begin on October 20, 1994 to November 7, 1994. When

you return you are to give this Administration a letter stating where and when you work outside employment.

/s/ Arturo Molina
Arturo Molina
Major

cc: Lieutenant Eppler
Chief Deputy Kramer
Sheriff Jankowski

File
AM/dwf

APPENDIX "C2"

November 14, 1994

To: Lieutenant Glinda Hoskins

Via: Chain of Command

Reference: Termination

Ms. Glinda Hoskins, this is your official notice of termination effective November 14, 1994. You have conducted yourself in a manner not conducive to the position of Supervisor in the Washington County Sheriff's Department. On October 19, 1994 you were placed on suspension for several policy violations and infractions of the Texas Commission on Law Enforcement Standards and Education. You were given two (2) weeks off without pay and a change of hours of work.

It was our hope that this was sufficient notice of your lack of concern for professionalism, and that, on your return be a more productive and harmonious employee, but you continue to fail at this. You approached Lieutenant Eppler and myself on separate occasions and told us that you didn't ask for a Personal Recognizant Bond for Prisoner Vasquez, you even had me approach Sheriff Jankowski and ask for a return of your pay and time which he agreed to. Now during our investigation you gave us a sworn statement stating you did not ask for a Personal Recognizant Bond and tried to implicate others but we have located a tape recording from the Waller County Sheriff's Office which has been transcribed, and on it your voice can be clearly heard, in which you identify yourself and state "We are going to try to P.R. bond him." With these problems facing us we have no alternative but to terminate you. Your continued blame of

others and your deceitfulness plus possible perjury leaves us with no options.

/s/ Arturo Molina
Arturo Molina
Major

cc: File
Sheriff Jankowski
Lieutenant Eppler

APPENDIX "D"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS,	*	
	*	
Plaintiff	*	C.A. NO. A-96-
VS.	*	CA-614-SS
	*	
WASHINGTON COUNTY, TEXAS	*	
	*	
Defendant	*	

DEPOSITION OF ARTURO MOLINA

APRIL 2, 1997 BRENHAM, TEXAS

A Better Court Reporting Service, Inc.
TRESSA GRANGER, PRESIDENT

Certified Shorthand Reporters

602 WEST 9TH STREET
AUSTIN, TEXAS 78701

AREA CODE (512)
478-1989

APPEARANCES:

For the Plaintiff:

Hugh O. Butler
405 Main Street, Suite 210
Houston, Texas 77002

By: Hugh O. Butler, Esq.

For the Defendant:

Allison, Bass & Associates
Wahrenberger House
208 W. 14th Street
Austin, Texas 78701

By: C. Rex Hall, Jr., Esq.

On the 2nd day of April, 1997, at 2:00 p.m. at the Washington County Courthouse, 100 E. Main, Brenham, Washington County, Texas, ARTURO MOLINA appeared before me, Melissa Parkhill, a certified shorthand reporter in and for Travis County, Texas and the State of Texas, and being by me first duly sworn or affirmed, testified by his oral deposition, pursuant to the notice of counsel for the respective parties as hereinafter set forth.

[p. 3] It was stipulated and agreed by and between counsel for the respective parties that time and notice of the taking of said deposition are not waived, with all objections, except as to the form of the question and responsiveness of the ānswer and to matters of privilege, to be reserved until the time of trial; that same may be taken at the time and place set forth, and when reduced to writing and returned into court, may be used by either party upon the trial of said cause, the same as if the witness were present testifying in person.

It was further stipulated and agreed by and between counsel that said deposition may be signed by the witness before any duly authorized and acting notary public in and for the State of Texas.

It was further stipulated and agreed by and between counsel that said deposition can be used without signature with the same force and effect as if read and sworn to, in the event that the deposition remains unsigned within thirty (30) days after receipt of same.

* * *

[p. 44] A. I don't really recall. I know I went several times in there. I don't know if it was for Tracy or other things. I know I went several times. I think it was only one time for Tracy's deal.

Q. So that's everything you know and everything that you can recall about the Tracy Vasquez incident is what we've already talked about?

A. As far as I know, yes.

Q. Can you tell me a little bit about your work history before coming to work for the Washington County Sheriff's Department. And I'm going to ask you to take a look at what has been marked or purports to be a resume. If you could, tell me if this is true and correct?

A. It's correct, as far as I know.

Q. Okay. Very good. Thanks.

(Exhibit No. 91 was marked for identification.)

Q. (By Mr. Butler) I'm going to ask you a couple of questions concerning your relationship with Diane Feuhs.

A. Okay.

Q. Did Diane ever come over to your home in [p. 45] Brenham when you worked for Washington County?

A. Several times.

Q. When was the first time?

A. I have no idea.

Q. Was it pretty soon after you started to work for Washington County?

A. I have no idea.

Q. You started to work on August 22nd. Would you say she had come over to your house at least by September of '94?

A. I guess. I don't recall.

Q. Okay. So you can't tell me – When did you leave Washington County? I mean, I know you left.

A. October 1, '95.

Q. When did you actually leave your residence here?

A. Probably a week after.

Q. Okay. So you left your residence sometime you think in October of '95 in Washington County?

A. Yes.

Q. So during the time between when you started in August, '94 and October, '95, which is approximately 13 or 14 months, how many times [p. 46] would you say that Diane Feuhs came over to your house?

A. All I can say is several.

Q. Would you say it would be more than five?

A. Yes, sir.

Q. More than ten?

A. Yes, sir.

Q. More than 20?

A. I don't know.

Q. Approximately 20 times?

A. Approximately.

Q. Okay. Did she ever spend the night?

A. No.

Q. Did you ever go over to Diane's house?

A. Did I go to Diane's house, yes.

Q. How many times do you think you went over to Diane's house?

A. Ten, 15.

Q. During the same period of time?

A. Uh-huh.

Q. Okay. Did you ever spend the night over at Diane's house?

A. No.

Q. Did you ever have an intimate or sexual [p. 47] relationship with Diane?

A. No.

Q. So you're telling us that you never had sex with Diane?

A. No.

Q. Well, what were you doing at all of these times that you were spending with each other?

A. Well, I'm a single parent. She's a single parent. My son and her children got along fantastic. She used to babysit for me when I wasn't there and was out of town. We were very good friends. Our kids got along great.

We would rent movies. We would barbecue. We would have other deputies over. I had several deputies visit me.

Q. So you're telling me that you were just friends with Diane?

A. Very good friends.

Q. But there was no intimate or sexual relationship?

A. No.

Q. That is a no, correct?

A. Yes, sir.

Q. All right. Do you have any idea [p. 48] approximately how long after you started before this friendship relationship started? Was it in the first couple of weeks, first couple of months? Do you recall?

A. By the third month. I'm not really sure.

Q. You're not sure?

A. I don't remember.

Q. Okay. That is all I need for you to say.

Did you ever go to Houston with Diane?

A. Not that I recall.

Q. Did you ever go out on a date with Diane?

A. Not a date, no.

Q. Did you ever go anywhere with Diane Feuhs in a car when the two of you were off duty?

A. I think we took the kids to the movies once.

Q. Any other times?

A. No, not off duty.

Q. Did this relationship that you had with Diane end at some point in time?

A. We're still friends.

Q. Okay. Has J.W. ever talked to you or

* * *

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS	*	
VS.	*	C.A.# A-96-CA-614-SS
WASHINGTON COUNTY, TEXAS	*	
	*	

I, Melissa Parkhill, Certified Shorthand Reporter in and for the State of Texas, hereby certify pursuant to the rules and/or agreement of the parties present to the following:

That this deposition transcript of ARTURO MOLINA is a true record of the testimony given by the witness named herein, after having been duly sworn.

That $____ is the charge for the preparation of the completed deposition transcript and any copies of exhibits, charged to _____.

That the deposition transcript was submitted on _____ to the witness or his attorney of record for examination, signature and return to A BETTER COURT REPORTING SERVICE, INC., by _____. The attached revision sheet contains any changes made by the witness and the reasons therefor.

That the deposition transcript ( ) was ( ) was not returned to the deposition officer by the witness, and that changes ( ) were ( ) were not made.

That the original deposition transcript, or a copy thereof, together with copies of all exhibits, was delivered to the attorney or party who asked the first question appearing in the transcript on _____.

That pursuant to the information made a part of the record at the time said testimony was taken, the following includes all parties of record:

Hugh O. Butler, Attorney for Plaintiff
C. Rex Hall, Jr., Attorney for Defendant

That a copy of this certificate was served on all parties shown herein.

Given under my hand and seal of office on this the ___ day of _____, 1997.

/s/ Melissa Parkhill
Melissa Parkhill
Certified Shorthand Reporter
The State of Texas, CSR# 5354
Cert. Expires 12/31/98
A Better Court Reporting, Inc.
P.O. Box 685229
Austin, Texas 78768-5229
(512) 478-1989

APPENDIX "E"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS,	*	
	*	
Plaintiff	*	C.A. NO. A-96-
VS.	*	CA-614-SS
	*	
WASHINGTON COUNTY, TEXAS	*	
	*	
Defendant	*	

DEPOSITION OF DIANE FEUHS

MARCH 18, 1997 BRENHAM, TEXAS

A Better Court Reporting Service, Inc.
TRESSA GRANGER, PRESIDENT

Certified Shorthand Reporters

3355 BEE CAVES RD., SUITE 201 AREA CODE (512)
AUSTIN, TEXAS 78746 478-1989

APPEARANCES:

For the Plaintiff:

Hugh O. Butler
405 Main Street, Suite 210
Houston, Texas 77002

By: Hugh O. Butler, Esq.

For the Defendant:

Allison, Bass & Associates
Wahrenberger House
208 W. 14th Street
Austin, Texas 78701

By: C. Rex Hall, Jr., Esq.

On the 18th day of March, 1997, at 1:30 p.m. at the Washington County Fairgrounds, Brenham, Washington County, Texas, DIANE FEUHS appeared before me, Melissa Parkhill, a certified shorthand reporter in and for Travis County, Texas and the State of Texas, and being by me first duly sworn or affirmed, testified by her oral deposition, pursuant to the notice of counsel for the respective parties as hereinafter set forth.

It was stipulated and agreed by [p. 3] and between counsel for the respective parties that time and notice of the taking of said deposition are not waived, with all objections, except as to the form of the question and responsiveness of the answer and to matters of privilege, to be reserved until the time of trial; that same may be taken at the time and place set forth, and when reduced to writing and returned into court, may be used by either party upon the trial of said cause, the same as if the witness were present testifying in person.

It was further stipulated and agreed by and between counsel that said deposition may be signed by the witness before any duly authorized and acting notary public in and for the State of Texas.

It was further stipulated and agreed by and between counsel that said deposition can be used without signature with the same force and effect as if read and sworn to, in the event that the deposition remains unsigned within thirty (30) days after receipt of same.

* * *

[p. 31] Q. Were you a corporal?

A. I might have been. Corporal's didn't come along until after Major Molina. I might have been a shift leader, but we didn't have titles.

Q. So the only thing you're sure of is you were jailer at that time?

A. Right, I was just a jailer.

Q. What was your relationship with Arturo Molina?

A. Work, friend. I mean, we worked together, and we were friends.

Q. Did you have any other relationship with Arturo Molina, other than he was your supervisor?

A. We were friends away from work, yes, we were friends.

Q. Now, when you said, "friends," were you – did you have an intimate relationship with Arturo Molina?

A. No.

Q. What did you do together as friends?

A. Our children, his son, my son, they would play together. We went to Houston one time to the shooting range. He had friends in Houston. It was a jailer, reserve jailer, Mr. Kallus. We went to his house one time in [p. 32] Houston. We went to the livestock show together, me and him, Mr. Kallus, his wife. That was about it.

Q. When you went all of these places with Mr. Molina, would you consider this a date?

A. No; no, I wouldn't, no. Children were usually along. It wasn't a date.

Q. Okay. When did this friendship start with Mr. Molina?

A. As far as our children playing together, they probably started playing together within a month after Mr. Molina started here. I guess that is kind of when me and him started becoming friends.

Q. Within a month after he had started?

A. Yeah.

Q. Sometime in September?

A. I believe I asked him, does your boy have any friends yet; what grade is he in; would he like to play.

Q. Okay. Did you ever go over to Arturo Molina's house in Brenham?

A. Yes.

Q. How many times?

A. I do not know how many times.

[p. 33] Q. More than five?

A. Oh, yes.

Q. More than ten?

A. Yes.

Q. More than 20?

A. Possibly.

Q. Around 20 times?

A. Maybe, yeah.

Q. And these were at all different – these were at all different times. Is this when you were off duty; is that correct?

A. Off duty. I mean, work – We were both at work at the same time.

Q. Did you ever spend the night over at his house?

A. No; no.

Q. What kind of car did you drive at this time?

A. The same car I have now, a '92 Nissan.

Q. What color is it?

A. They call it pebble beige.

Q. At this time, did it have any damage to it?

A. Uh-huh, the same damage it has now.

Q. Which is what?

[p. 34] A. To the front left, front left fender.

Q. How many times did you go to Houston with Molina?

A. Four or five.

Q. Was this always with other couples and children, or did you ever go there just the two of you?

A. I believe the shooting range we might have been by ourselves. It was an indoor shooting range. I believe we were by ourselves.

Q. So at least one time by yourself?

A. Uh-huh.

Q. Okay. You don't characterize any of these times that you went out with Arturo Molina as a date then?

A. No.

Q. And from what you've said, you were – you took various trips with Arturo Molina in a car then; is that correct?

A. Yes.

Q. Okay. Were you aware – let's take a look at exhibit 16 here. I'm going to show you some photographs of a car, and can you tell me if that is your car?

A. Uh-huh.

[p. 35] Q. And that's the car that has the damage on the left front fender?

A. It appears to be mine. I can't read the license plate, but, yes, it looks like my car.

Q. Do you know where your car is when these pictures were taken?

A. Uh-huh, in front of Mr. Molina's house.

Q. Were you aware at this time that Sheriff Jankowski frowned on fraternization?

A. I'm sorry?

Q. Were you aware that Sheriff Jankowski frowned on –

A. Oh, yes.

Q. Fraternization?

A. Yes. I didn't hear the first part. Yes.

Q. You were aware of that?

A. Yes.

Q. Did you consider this friendship relationship with Arturo Molina to be fraternization?

A. No.

Q. And had Mr. Jankowski ever talked to you or counseled you about fraternization with sheriff department employees prior to this?

* * *

[p. 57] about Glinda?

A. No.

Q. Okay. Now, who did Glinda's duties after she was terminated?

A. I took over most of them. I believe Lieutenant Eppler might have been given some of them, too.

Q. Did you take over the T. D.C. transfer papers?

A. No. That was, I believe, Lieutenant Eppler.

Q. How about scheduling work hours for staff?

A. Lieutenant Eppler.

Q. Generating time sheets for staff to be paid?

A. Lieutenant Eppler.

Q. P.I.A. papers?

A. Lieutenant Eppler. I never handled that.

Q. End of month reports?

A. Lieutenant Eppler had them to begin with.

Q. How about the inmate commissary bills?

A. I don't know who those were given to.

* * *

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS	*	
	*	
VS.	*	C.A.# A-96-
WASHINGTON COUNTY, TEXAS	*	CA-614-SS
	*	

I, Melissa Parkhill, Certified Shorthand Reporter in and for the State of Texas, hereby certify pursuant to the rules and/or agreement of the parties present to the following:

That this deposition transcript of DIANE FEUHS is a true record of the testimony given by the witness named herein, after having been duly sworn.

That $ ___ is the charge for the preparation of the completed deposition transcript and any copies of exhibits, charged to _____.

That the deposition transcript was submitted on _____ to the witness or his attorney of record for examination, signature and return to A BETTER COURT REPORTING SERVICE, INC., by _____. The attached revision sheet contains any changes made by the witness and the reasons therefor.

That the deposition transcript ( ) was ( ) was not returned to the deposition officer by the witness, and that changes ( ) were ( ) were not made.

That the original deposition transcript, or a copy thereof, together with copies of all exhibits, was delivered to the attorney or party who asked the first question appearing in the transcript on _____.

That pursuant to the information made a part of the record at the time said testimony was taken, the following includes all parties of record:

Hugh O. Butler, Attorney for Plaintiff
C. Rex Hall, Jr., Attorney for Defendant

That a copy of this certificate was served on all parties shown herein.

Given under my hand and seal of office on this the ___ day of _____, 1997.

/s/ Melissa Parkhill
Melissa Parkhill
Certified Shorthand Reporter
The State of Texas, CSR# 5354
Cert. Expires 12/31/98
A Better Court Reporting, Inc.
P.O. Box 160070
Austin, Texas 78716
(512) 478-1989

APPENDIX "F"

ELLIS, WALTER FRANKLIN — 2/13/50 — M — 452-78-5413
NAME: (Last, First, Middle) — D.O.B. — SEX — SOC. SEC. NO.

Rt. 2, Box 279C
ADDRESS:

09/01/93
DATE OF HIRE

Luling, Texas 78648
CITY, STATE, ZIP

03/31/94
DATE OF TERMINATION

338-555
RETIREMENT MEMBERSHIP NUMBER

EMPLOYMENT HISTORY:

POSITION	DATE	SALARY
Jailer	09/01/93	1040.00
DL07173703		

FEUHS, DIANE W. — 7/18/65 — F — 460-45-4974
NAME: (Last, First, Middle) — D.O.B. — SEX — SOC. SEC. NO.

501 Church St
ADDRESS:

09/07/93
DATE OF HIRE

Brenham, Texas 77833
CITY, STATE, ZIP

DATE OF TERMINATION

338-557
RETIREMENT MEMBERSHIP NUMBER

EMPLOYMENT HISTORY:

POSITION	DATE	SALARY
Jailer	09/07/93	1040.00
"		1102.44
"	07/01/94	1180.38
"	01/16/95	1450.00
Jailer/Clerk	03/01/95	1400.00
Patrol Deputy	1/1/1996	1692.30/mon
Deputy Sheriff	7-1-1996	1746.88/mon
DL10452076		

APPENDIX "G"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS,	*	C.A. NO. A-96-CA-614-S
Plaintiff	*	
VS.	*	
WASHINGTON COUNTY, TEXAS,	*	
Defendant	*	

DEPOSITION OF RICHARD JOHNSON

FEBRUARY 20, 1997 BRENHAM, TEXAS

A Better Court Reporting Service, Inc.
TRESSA GRANGER, PRESIDENT

Certified Shorthand Reporters

3355 BEE CAVES RD., SUITE 201 AREA CODE (512)
AUSTIN, TEXAS 78746 478-1989 APPEARANCES:

For the Plaintiff:

Hugh O. Butler
405 Main Street, Suite 210
Houston, Texas 77002

By: Hugh O. Butler, Esq.

For the Defendant:
Allison, Bass & Associates
Wahrenberger House
208 W. 14th Street
Austin, Texas 78701

By: C. Rex Hall, Jr., Esq.

Also Present:

Glinda Hoskins, Plaintiff

On the 20th day of February, 1997, at 2:25 p.m. at the Washington County Courthouse, Brenham, Washington County, Texas, RICHARD JOHNSON appeared before me, Melissa Parkhill, a certified shorthand reporter in and for Travis County, Texas and the State of Texas, and being by me first duly sworn or affirmed, testified by his oral [p. 3] deposition, pursuant to the notice of counsel for the respective parties as hereinafter set forth.

It was stipulated and agreed by and between counsel for the respective parties that time and notice of the taking of said deposition are not waived, with all objections, except as to the form of the question and responsiveness of the answer, to be reserved until the time of trial; that same may be taken at the time and place set forth, and when reduced to writing and returned into court, may be used by either party upon the trial of said cause, the same as if the witness were present testifying in person.

It was further stipulated and agreed by and between counsel that said deposition may be signed by the witness before any duly authorized and acting notary public in and for the State of Texas.

It was further stipulated and agreed by and between counsel that said deposition can be used without signature with the same force and effect as if read and sworn to, in the event that the deposition remains unsigned within thirty (30) days after receipt of same.

* * *

[p. 5] MR. BUTLER: The same stipulations as before?

MR. HALL: Yes, I believe we'll agree to the same stipulations as in the other two depositions. All objections will be reserved for the trial except objections to the form of the question and the responsiveness of the answer. Privileges also need to be asserted, but I don't think that will be an issue.

EXAMINATION BY MR. BUTLER:

Q. Mr. Johnson, my name is Hugh Butler, and I'm a lawyer. And I represent Glinda Hoskins right here, and you know Glinda.

Glinda is suing Washington County, and that is why we're here today is to investigate the facts surrounding that and see if you have any testimony that may be applicable as a witness in that case. So we're not alleging that you've done wrong; we're not investigating you. We're just here to find out what you have to say. Okay. So I just want you to relax and tell the truth as you've sworn to.

[p. 6] And if I ask a question that you don't understand, just go ahead and respond to me that you don't understand the question, and I'll try and rephrase the question for you. Okay?

A. All right.

Q. Okay. How long have you been with the Washington County Sheriff's Department, Mr. Johnson?

A. Going on four years.

Q. When did you start?

A. September 7, 1993.

Q. '93, okay. So were you there when Glinda Hoskins was suspended and terminated by the Washington County Sheriff's Department?

A. Yes.

Q. Okay. Now, what is your position with the Washington County Sheriff's Department?

A. I'm a deputy jailer.

Q. Okay. And what position did you start out as?

A. Jailer.

Q. Okay. Is there a difference between being a deputy jailer and a jailer? Is that a promotion or what is that?

A. No. It's just that they sent me through [p. 7] a peace officer course over there at Texas A&M to become a certified peace officer.

Q. And when did you take that course?

A. This past June.

Q. Did you pass that course?

A. Yes.

Q. Okay. I want to put you back into 1994. Did you at some time in 1994 have an occasion to tell Sharon Pendergraff about a conversation that you had overheard between Eddie Eppler, Diane Feuhs and Arturo Molina?

A. Yes, I remember telling her something about it.

Q. Okay. What was that conversation, and how did you happen to hear that conversation?

A. Well, at the time, if I'm not mistaken, I think I was either dressing an inmate out, but I happened to be back in the storeroom area where we suit the inmates and stuff out at.

Q. Okay.

A. And they was talking, you know, real loud in the administrator's office.

Q. Okay.

A. And I just overheard conversation while I was inside of the area where we suit the inmates [p. 8] out at.

Q. Okay. And what was that conversation?

A. Well, basically, all I really heard them say, you know, that they was going – that Ms. Hoskins – I don't know if something had that happened before then to where she was suspended and that they said once – I heard Major Molina say, "Once she gets back, we better be prepared." And what he really meant by that, I don't really know what he meant by that.

But it had got – It was to the point where, like, they was saying, you know, once she gets back, they were either going to take her position from her and they was going to make Lieutenant Eppler, you know, next to him. But I heard Lieutenant Eppler say, "Y'all do what you want to do, but I don't want to make it look like I had any part in it."

Q. Okay.

A. And you know, from that time on, you know, when Ms. Feuhs got out of the school, you know – she had not too long come out of the peace officer course, the one that I took, you know. And you know, she was starting to do things that Ms. Hoskins was doing. You know, and I started, [p. 9] kind of putting everything together, you know, that that was what was taking place.

And I had talked to Sharon, and I told Sharon about it, you know. But as far as going to anybody else with it, you know, I hadn't. I had talked to you, you know, the time you had asked me about what I knew about the situation.

Q. Right. You remember talking to me back sometime ago about this, do you not?

A. I remember talking to you, but I don't know exactly what all I told you about it.

Q. I'm going to show you a document, which has got some of my notes, and it's got a signature and a date here. And I would like for you to take a look at that and tell me if that is your signature?

A. That's my signature.

Q. Okay.

A. But I can't read what is on here. But that is my signature at the bottom.

Q. Okay. But we did talk about this subject, and that is your signature when we talked about that subject; correct?

A. Yes.

MR. BUTLER: Just enter that as [p. 10] exhibit 4, please.

(Exhibit No. 4 was
marked for identification.)

Q. (By Mr. Butler) In this conversation that you overheard between Diane, Molina and Eppler, do you recall Molina saying words to the effect that he did not know if he could get the sheriff to go along with this, but he was going to try? Did he say something like that? Do you recall?

A. If I recall, I think he did say something like that.

Q. Okay. So after you overheard this conversation, what did you think about the situation? What did you think after you heard that? What did you think was going on?

A. Well, after I heard that situation, you know, to me, it just came to me, you know, that they was going to either – they was plotting something either to get rid of her or demote her.

Q. When you say, "her," you're talking about Glinda?

A. Ms. Hoskins. That is the way I interpreted it. I don't know exactly what they was really going along with. But that is what – [p. 11] like I say, when I came out of there, that is what I thought that was taking place.

Q. Okay. Now, after Glinda was suspended and then terminated, did Diane take over any of Glinda's

duties? After Glinda was either suspended or terminated, did she do any of the jobs that or the paperwork that Glinda was doing or do you know?

A. She was doing so much different stuff, you know. She was doing some of the stuff that Ms. Hoskins was doing, but I don't know if she was in that position at that time, you know, to take the role that Ms. Hoskins had.

Q. But she was doing some of the things?

A. Some of the work Maj or Molina had put her to do.

Q. Okay. Now, to change the subject a little bit, let's talk about Eddie Eppler a little bit.

Has Eddie Eppler ever made any derogatory statements about you or to you? Do you know what "derogatory" means?

Has he ever said anything to you to put you down or to find fault with you or that was painful or hurtful to you? Has Eddie Eppler ever

* * *

[p. 15] Q. Okay. From your observations of Diane Feuhs, what is your opinion of how she feels about black Americans? Do you think she's prejudiced or not prejudiced or what would you say?

A. Well, really, basically, with my dealing with her, you know, I never ran into that problem with her. I don't know about the other workers on the shift. But me personally, you know, me and her always got along real well.

Q. Okay. Now, after Glinda was terminated, did Diane Feuhs work in Glinda's office or do you know?

A. Well, she used to go off in there to do paperwork for Major Molina. I don't know if she took an acting role in the office.

Q. I see. Well, let me be a little clearer.

Did she go into the office where Glinda used to have her office – did Diane go in there and do her paperwork in there?

A. Yes.

Q. Okay. Now, let's go back to the conversation that you overheard between Molina, Feuhs and Eppler. Could you explain in a little more detail how those offices adjoined each other [p. 16] and how you happened to be in there and overheard that conversation. Could you go over that one more time. Are they two adjoining offices or what are they?

A. Well, as you come in from the outside, you will run straight into the jail administrator's office.

Q. Okay.

A. Right next to it was another little room.

Q. Okay.

A. Okay. You can go from inside the jail administrators's office straight into the room where we suit the inmates and stuff out. There was a door right there.

Q. Okay.

A. And where he had his desk at, you could hear everything, you know, outside of his office off in that room back there.

Q. Okay. So you weren't in there to try to listen to the conversation; you were just doing your job –

A. Yes.

Q. – and just happened to be there; is that correct?

[p. 17] A. Yes.

Q. Okay. Do you recall Ms. Feuhs in that conversation saying anything or words to the effect that she was going to have trouble when she became a lieutenant because Sharon and Glinda were friends? Do you recall Ms. Feuhs saying words to that effect?

A. Well, I knew she always – Well, I guess she always felt that there was going to be a friction there because, like you said, Ms. Hoskins and Ms. Pendergraff was real close.

Q. But do you recall her saying that in this conversation that you overheard?

A. I think I did.

MR. BUTLER: Okay. Thank you. I have no further questions.

MR. HALL: Well, I've got a couple, but it won't take very long.

THE WITNESS: No problem.

EXAMINATION BY MR. HALL:

Q. I believe we met earlier today, didn't we, Mr. Johnson? My name is Rex Hall.

* * *

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GLINDA HOSKINS	*	
VS.	*	
	*	C. A.# A-96-CA-614-S
WASHINGTON COUNTY, TEXAS	*	
	*	

I, Melissa Parkhill, Certified Shorthand Reporter in and for the State of Texas, hereby certify pursuant to the rules and/or agreement of the parties present to the following:

That this deposition transcript of RICHARD JOHNSON is a true record of the testimony given by the witness named herein, after having been duly sworn.

That $ _____ is the charge for the preparation of the completed deposition transcript and any copies of exhibits, charged to _____.

That the deposition transcript was submitted on _____ to the witness or his attorney of record for examination, signature and return to A BETTER COURT REPORTING SERVICE, INC., by _____. The attached revision sheet contains any changes made by the witness and the reasons therefor.

That the deposition transcript ( ) was ( ) was not returned to the deposition officer by the witness, and that changes ( ) were ( ) were not made.

That the original deposition transcript, or a copy thereof, together with copies of all exhibits, was delivered to the attorney or party who asked the first question appearing in the transcript on _____.

That pursuant to the information made a part of the record at the time said testimony was taken, the following includes all parties of record:

Hugh O. Butler, Attorney for Plaintiff
C. Rex Hall, Jr., Attorney for Defendant

That a copy of this certificate was served on all parties shown herein.

Given under my hand and seal of office on this the ___ day of _____, 1997.

/s/ Melissa Parkhill
Melissa Parkhill
Certified Shorthand Reporter
The State of Texas, CSR# 5354
Cert. Expires 12/31/98
A Better Court Reporting, Inc.
P.0. Box 160070
Austin, Texas 78716
(512) 478-1989

Richard Johnson 3/28/95
Pct 7 Box 578
Wash' TX. 77880
no phone # (409)
pager - ~~249-5811~~ 249-6711

1. Arrived 9/1/93 — jail cell that two jailers
2. A. Calley recalls to duress cell immediately on storage area — Next to Jail Admin office
B- Overhead: Mayor Nolan —
Sam Mr. Eggler, Mr. Fuchs go into Nolan office

On 2 week suspension

3. Mayor Nolan — told that Mr. Walker is going to be upset when he get back
Eddie — Just do what you have to do just when I make I look like I had anything to do with it.
Mayor Nolan — Don't worry about that going to put more pressure on Chief Eggler tomorrow

Tuesday door | Nolan office

4. Thought that he was talking about Sina being over Claude position

Dave has started doing Claude's job assistant.
1. Ant Adm Duties — Juvenile
2. Set up for P.I.H → Parole Div Admin
3.

Johnson #4

BEST AVAILABLE COPY

Pvt no recollection → [illegible] another jailer
good deputy — sent to peace officer.
Pen suspended w/o pay for 2 weeks
Body unable back from hospital
picks up same post →
White officer — went off to dispatch school
→ Caught in a bar with a weapon
pistol fell on floor
→ Terminated Ben guy that went to look at them
Health issues → gave 3 days suspen

Blanks are not police positions →
Position outside the jail
Older fire Corp position → Bill
All day position
Some Elmer Light corp people to Mr. Dave Fuchs

Sept 1994

3/24/95

Richard Johnson

APPENDIX "H"

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY
[ ] FEPA
[X] EEOC

CHARGE NUMBER
360950233

Texas Commission on Human Rights and EEOC
State or local Agency, if any

21 NOV 94 P

NAME *(indicate Mr., Ms., Mrs.)*
Ms. Glinda F. Hoskins

HOME TELEPHONE *(include Area Code)*
(409) 830-5320

STREET ADDRESS CITY, STATE AND ZIP CODE
1004 ARMBRISTER, BRENHAM, TX 77833

DATE OF BIRTH
02/20/57

NAME IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME *(If more than one list below).*

NAME
WASHINGTON COUNTY SHERIFF'S DEPT.

NUMBER OF EMPLOYEES, MEMBERS
Cat A (15-100)

TELEPHONE *(Include Area code)*
(409) 277-6250

STREET ADDRESS CITY, STATE AND ZIP CODE
1206 OLD INDEPENDENCE, BRENHAM, TX 77833

COUNTY
477

NAME TELEPHONE NUMBER *(Include Area Code)*

STREET ADDRESS CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON *(Check appropriate boxes).*

[X] RACE [ ] COLOR [ ] SEX [ ] RELIGION
[ ] NATIONAL ORIGIN [ ] RETALIATION
[ ] AGE [ ] DISABILITY [ ] OTHER *(Specify)*

DATE DISCRIMINATION TOOK PLACE

EARLIEST	*LATEST*
10/19/94	11/14/94

[ ] CONTINUING ACTION

THE PARTICULARS ARE *(If additional space is needed, attach extra sheet(s)):*

On October 19, 1994 I was placed on two-weeks suspension without pay. On November 14, 1994 I was discharged.

I believe I have been discriminated against because of my race (Black), in violation of Title VII of the Civil Rights Act of 1964, as amended.

[ ] I want this charge filed with both the EEOC and the State of Local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

I declare under penalty of perjury that the foregoing is true and correct.

Date 11-18-1994

/s/ Glinda F. Hoskins
Charging Party *(Signature)*

APPENDIX "I"

OFFICE OF
J. W. JANKOWSKI, SHERIFF

TELEPHONE: (409) ILLEGIBLE
MARK KRAMER — OFFICE - 277-6250
CHIEF DEPUTY — FAX - 277-6258

[SEAL]

WASHINGTON COUNTY
SHERIFF'S DEPARTMENT

November 29, 1994

Mr. John Wynkoop, Supervisor
Equal Employment Opportunity Commission
San Antonio District Office
5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229

Reference: Hoskins, Glinda F.
Charge Number 360950233

Mr. Wynkoop,

On November 14, 1994 I dismissed Ms. Glinda Hoskins from employment with the Washington County Sheriff's Department Detention Bureau. Ms. Hoskins was released for numerous reasons. During her employment with us she misrepresented her authority to another police Agency and requested a Personal Recognizant Bond for a prisoner, then continues to deny this even after she was approached with a audio tape and transcript. She also attempted to implicate others in this matter refusing to admit sole guilt. She returned to work, after being suspended on October 19, 1994 with a lackluster attitude and disregard for professionalism, refusing to

work in a harmonious environment and be more productive.

This individual was terminated because of the libelous manner in which she conducted herself, also the lack of professional and harmonious attitude she displayed and not because the color of her skin or her gender. Attached please find copies of suspension and termination letters.

/s/ Arturo Molina
Arturo Molina, Major
Washington County Detention Center

AM/dwf

[SEAL]

APPENDIX "J"

Civil Rights Division

NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

Washington, DC 20530

DLP:RLW:ljt

January 18, 1996

CERTIFIED MAIL

Ms. Glinda F. Hoskins
c/o Hugh O. Butler, Esquire
Attorney at Law
405 Main Street, #210
Houston, TX 77002

Re: EEOC Charge Against Washington County Sheriff's Department No. 360950233

Dear Ms. Hoskins:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over that charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*, against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your ease is located in the EEOC District Office, 5410 Fredericksburg Road, Suite 200, Mockingbird Plaza II, San Antonio, Texas 78229-3555.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Deval L. Patrick
Assistant attorney General
Civil Rights Division

By: /s/ Rita L. Wilson
Rita L. Wilson
Civil Rights Analyst
Employment Litigation Section

cc: EEOC District Office
Washington County Sheriff's Department

APPENDIX "K"

Washington County

PERSONNEL POLICY MANUAL

WASHINGTON COUNTY
POLICY ON GRIEVANCES AND GRIEVANCE PROCEDURE

RIGHT OF GRIEVANCE

1. Current employees of Washington County who feel they have been improperly or unfairly treated in their job or in their relationship with the county shall have the right to file a grievance.

2. Actions or results which occur and which are beyond the control of the county shall not be considered grounds for grievance.

GRIEVANCE PROCEDURE

3. Grievances shall be handled in accordance with the attached grievance procedure.

STOPPING THE GRIEVANCE PROCEDURE

4. Only the employee who has filed the grievance shall be able to stop the grievance procedure either by action or inaction.

5. The grievance procedure shall be stopped if:

   a. The employee indicates he/she is satisfied with the action to resolve the grievance at any level of the grievance procedure;

   b. The employee, for any reason, indicates that he/she no longer wishes to continue the grievance procedure; or

   c. The employee fails to take action to continue with the next step of the procedure within three working days of completion of the prior step.

TIMELY FILING

6. Grievances must be filed within five (5) working days of the occurrence of the incident causing the grievance.

ADVERSE ACTION

7. No adverse action shall be taken against any employee for reason of his/her exercise of the right to file a grievance.

COMBINED STEP

8. If the employee's immediate supervisor is the department head, Step B of the grievance procedure may be eliminated and the employee may go immediately to Step C from Step A.

WASHINGTON COUNTY

GRIEVANCE PROCEDURE

STEP A

1. Employee informally discusses grievance with his/her supervisor.

2. Supervisor decides what action, if any, will be taken in regard to the grievance.

If Step A does not result in a resolution of the grievance, the employee may proceed to Step B, which is the first step of the formal grievance procedure, within five (5) working days after the informal discussion with his/her supervisor.

STEP B

1. The employee prepares a written statement giving the details of the grievance and stating the specific remedial action requested.

2. Employee physically gives grievance statement to supervisor.

3. Supervisor reviews the facts of the grievance, makes a decision as to what action, if any, is to be taken to resolve the grievance and communicates the decision to the employee within five working days after having received the grievance.

If the employee is not satisfied with the decision in Step B or if the supervisor fails to respond within five working days, the employee may take the grievance to Step C within five (5) working days.

STEP C

1. The employee physically submits a written copy of the grievance to the department head along with a copy of the decision made by the supervisor or a statement that the supervisor failed to provide a decision within the five working day limit if such is the case.

2. The department head reviews the details of the grievance and, within five working days, provides the employee with a written statement of what action, if any, is to be taken to resolve the grievance.

If the employee is not satisfied with the decision of the department head or if the department head fails to respond within five working days, the employee may take the grievance to the next step within five (5) working days.

STEP D

1. The employee physically submits a copy of the grievance to the County Judge along with copies of any decisions made in Steps B and C or statements of a failure of the supervisor or department head to respond where such is the case.

2. The County Judge presents the grievance to the members of the Grievance Board. The Grievance Board is composed of seven (7) members, which includes the County Judge, who serves as a chairman of the committee. The six (6) other members shall include three (3) of the following as designated by the Commissioners Court: County Sheriff, County Tax Assessor-Collector, County Treasurer, County Clerk, District Clerk, County Attorney, County Auditor, County Court at Law Judge, Road and Bridge Administrator and Emergency Medical Services Director and three (3) county residents. The county residents shall be selected from members who served on the last grand jury by the Commissioners Court. The decision of the grievance committee, by majority vote, is final.

3. The procedure for the grievance board hearing will be determined by County Judge.

4. The Grievance Board gathers any additional information that may be pertinent to the grievance and, by majority decision of the Board, determines what action, if any, is to be taken to resolve the grievance. This is strictly a meeting of our Grievance Board and, therefore, is not open to the public.

5. The County Judge provides the employee with a written copy of the decision made by the Grievance Board within five (5) working days after the meeting at which the decision was made.

The completion of Step D is the end of the internal grievance process.

POLICY APPROVED
AND ADOPTED BY: DATE:

COUNTY COMMISSIONERS COURT

_____

APPENDIX "L"

November 17, 1994

To: Lt Eddie W. Eppler
From: Glenda F. Hoskins
Ref: Termination dated November 14, 1994

This is the first step in the grievance procedure available to all county employees. As instructed by an attorney, I am requesting in writing what part you played in my termination.

/s/ Glenda F. Hoskins
1004 Armbrister
Brenham, TX 77833

(409) 830-5320.

Please sign and date this copy.

/s/ Eddie W. Eppler 11-17-94

APPENDIX "M"

From: Glinda Hoskins
Re: Termination of Glinda Hoskins

Major Molina:

This is the second step in the formal grievance process in place for all county employees.

Lieutenant Eppler and ~~yourself have failed to provide~~, [/s/ G.H.] to my understanding, a reason for my recent termination.

You cite a lack of professionalism on my part and of not working harmoniously with my co-workers. I believe that is false. In regards to the Tracy Vasquez matter; I volunteered to take a polygraph and you declined to use that method to clear my name. I refuse to be disciplined for something that I did not do.

You also state that I blame others for my errors and behave in a deceitful manner. That is a complete falsehood. I would also like for you to explain, to me, in detail, the nature of the perjury accusation. I have no knowledge of having perjured myself at any time.

I anxiously await your reply.

Sincerely

/s/ Glinda F. Hoskins

Please Give written response.

/s/ Illegible 11-05-94

APPENDIX "N"

November 21, 1994

To: Glinda Hoskins
From: A. Molina, Major
Reference: Termination

Ms. Hoskins, in your letter you ask for an explanation of the circumstances surrounding your termination. You were given that explanation at the time you were dismissed. I will attempt to give you that explanation again. On the professionalism matter, you have conducted yourself in a manner not acceptable to standards of a Supervisor with the Washington County Sheriff's Department. As to harmoniously working with coworkers we have talked in the past reference to your attitude toward other employee's and inmates. I have received numerous complaints reference this problem and you were made aware. You continue to deny your involvement in the Personal Recognizant Bond process involving prisoner Vasquez but I showed you a transcript and let you hear recording's, that you admitted was your voice. As to perjury I just advised you that you had given us a sworn statement, which was notarized and the possible consequences of that. In short Ms. Hoskins I stand by my decision to terminate. We have found numerous other things that should have been completed by you in your role as Administrative Lieutenant but because of your lack of professionalism and concern for this Department you again failed at this.

/s/ Arturo Molina
Major

cc: File
Sheriff Jankowski
Chief Deputy Kramer
Lieutenant Eppler

APPENDIX "O"

November 28, 1994

To: Sheriff J.W. Jankowski
Washington County Jail
From: Glinda Hoskins

Re: Termination

Sheriff Jankowski:

This letter is the third step in the grievance procedure of Washington County.

On November 14, I was terminated by Major Arturo Molina, in a manner which I feel was unfair and unjustified.

The accusation that he has made against me concerning calling to Waller County and requesting a personal recognizance bond for a former employee is a complete fabrication. I never called the judge of Waller County to request a P.R. bond. The sentence that Major Molina referred to in my termination is a statement that was taken out of context in a conversation that occurred between a jailer at the Waller facility and myself. Major Molina said to me that he had a sworn statement from a corporal saying that I had asked for a P.R. Bond. I have been employed by the Washington County Jail for almost five years and certainly know that the only people that have the authority to give that type of bond would be the sheriff of that county or the judge in that county. In either case, I talked to neither of these persons in Waller County. Major Molina also claims that the phone call was made between the hours of 12 a.m. and 2 a.m. At that hour, I was at home, asleep. If the phone call had been made

collect, then the phone call would have been recorded on my phone bill. If the phone call had not been collect, the phone call would have been recorded on Waller County's phone bill with my home phone number recorded on it. The bottom line is that if he had listened to the recorded phone call that I received at the Washington County Jail later that same morning, he could have ascertained from the content of that call, that Tracy Vasquez had not talked to me at all until that point. In that particular phone call, Vasquez made the statement to me that the had tried to call me but that he had not gotten an answer. I told him that my home phone had been turned off that night at around 10 p.m. when I went to bed.

Major Molina has continually made false statements to me and to others concerning details of this incident. If the incident had occurred in the manner that he has repeatedly stated, I would have taken the two weeks suspension that I was given and not mentioned it again. However, I can not and will not accept as truth, that which is not. I want this incident to be cleared from my record as an employee of Washington County Jail, which had been unblemished by incidents of this sort in the four years and seven months that I had been employed by Washington County Jail. In fact, incidents of this sort had not been even hinted at until the employment of Major Molina.

As I have stated before, I have been employed by Washington County Jail for almost five years and certainly know what is proper procedure in most every circumstance.

In addition, I request a copy of the tape that Washington County Sheriffs Department has in their possession of the phone calls that were made or received on October 12, 1994 from/at the jail.

Respectfully,

/s/ Glinda F. Hoskins
Glinda Hoskins
1004 Hoskins
Breham, Texas 77833

(409) 830-5320

Rec Nov. 30, 1994
4:30 p.m.

APPENDIX "P"

J.W. JANKOWSKI, SHERIFF

MARK KRAMER
CHIEF DEPUTY

TELEPHONE: (409)
OFFICE 277-6250
FAX 277-6258

[SEAL]
WASHINGTON COUNTY
SHERIFF'S DEPARTMENT

DECEMBER 6, 1994

GLENDA HOSKINS
1004 ARMBRISTER
BRENHAM, TEXAS 77833

RE: NOVEMBER 30, 1994 TERMINATION

MS. GLINDA HOSKINS:

ON OCTOBER 12, 1994, AT APPROXIMATELY 5:20 AM, YOU RECEIVED A PHONE CALL FROM TRACY VASQUEZ, AN EMPLOYEE WITH WASHINGTON COUNTY SHERIFF'S DEPARTMENT. MR. VASQUEZ WAS CALLING FROM WALLER COUNTY JAIL, WHERE HE WAS INCARCERATED. THE CONVERSATION YOU HAD WITH MR. VASQUEZ WAS QUITE LENGTHY. TOWARD THE END OF THE CONVERSATION, YOU ADVISED MR. VASQUEZ ABOUT TRYING TO OBTAIN A PERSONAL RECOGNIZANCE BOND (P.R. BOND) FOR HIM.

YOU HAD AMPLE TIME TO NOTIFY MAJOR MOLINA OR ME ABOUT MR. TRACY VASQUEZ'S SITUATION WITH WALLER COUNTY SHERIFF'S DEPARTMENT. HOWEVER, YOU CHOSE NOT TO DO SO.

THEREFORE, YOUR TERMINATION ON NOVEMBER 14, 1994 WILL BE UPHELD.

SIGNED,

/s/ J.W. Jankowski
J.W. JANKOWSKI
SHERIFF

APPENDIX "Q"

December 6, 1994

To: Judge Dorothy Morgan
Washington County Courthouse
Brenham, Texas 77833
From: Glinda Hoskins
Re: Termination of Glinda Hoskins
Dear Judge Morgan;

This letter is the fourth step in the formal grievance process for all county employees.

On November 14, I was terminated from Washington County Jail by Major Arturo Molina, in a manner that I feel was unfair and unjustified.

The accusation that he has made against me concerning calling to Waller County and asking for a personal recognizance bond for a former jail employee is a complete fabrication. I never called the judge to request a P.R. bond. The sentence that Major Molina referred to in my termination notice is a statement that occurred between myself and a jailer at the Waller facility. The statement was also, I might add, taken out of context. Major Molina told me that he had a sworn statement from a corporal saying that I had asked for a P.R. bond. I have never been allowed to even see the statement much less see who the statement was made by. I have been employed by the Washington County Jail for almost five years and certainly know that the only people that have the authority to give that type of bond would be the Sheriff of that county or the Judge of that county. In either case, I talked to neither of these persons in Waller County. Major

Molina also claims that the phone call was made between the hours of 12 a.m. and 2 a.m./At that hour, I was at home, asleep. If the phone call had been made, then it would appear on a phone bill somewhere. If the call were made collect, then the phone call would have appeared on my home phone bill. If the call was not made collect, then the call would have been recorded on Waller County phone bills. The bottom line is, that if Major Molina had listened to the recorded phone call that I received at Washington County Jail later that morning, he could have ascertained from the content of that call, that Tracy Vasquez had not talked to me at all until that point. In the phone call that I am referring to, Vasquez made the statement to me that he had tried to call but that he had not gotten an answer. I replied to him that I had turned off my home phone when I retired for the night at 10 p.m.

Major Molina has continually made false statements to me and to others concerning the details of this incident. If the incident had occurred in the manner that he has repeatedly stated, I would have taken the two weeks that I was given and considered myself lucky that I had a job to return to. The incident itself, would have never been referred to again. However, I cannot let the situation stand as is. I cannot let a falsehood stand on my record as an employee and not let the truth be told. I want this incident cleared off my record which had not been blemished by this sort of problem until Major Molina came to be employed at Washington County Jail.

Major Molina has stated on more than one occasion that he had problems concerning my professional conduct. When Major Molina was first employed by the jail, I was prepared to give him my full support because we

needed an administrator of integrity. However, certain actions of his have come to light, and in respect to these actions, I seriously question his integrity. As, I stated before, I have been employed by the Washington County Jail for almost five years and certainly know which procedure to follow in most every circumstance.

In addition, I have requested, from the sheriff, a copy of the recorded phone calls that were recieved or made from the jail on the day in question, October 12, 1994, I have not recieved a reply from the sheriff concerning these tapes.

Your attention to these matters will be greatly appreciated.

Respectfully yours,

/s/ Glinda F. Hoskins
Glinda Hoskins
1004 Armbrister
Brenham, Texas 77833

(409) 330-5320